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MARYLAND
GENERAL ASSEMBLY



DEPARTMENT OF LEGISLATIVE REFERENCE

MARYLAND
STYLE MANUAL
FOR
STATUTORY LAW

REVISOR OF STATUTES

**The Legislative Division
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TABLE OF CONTENTS

| <u>Chapter</u> | <u>Title</u> | <u>Page</u> |
|----------------|---|-------------|
| 1. | Introduction to Style Manual..... | 1 |
| | Comparison with Previous Manual | 1 |
| | Application of Manual..... | 1 |
| | History and Adoption of Manual..... | 3 |
| 2. | Age..... | 5 |
| | Rule 1. Younger than specified age..... | 5 |
| | Rule 2. At least specified age..... | 5 |
| | Rule 3. Adult..... | 5 |
| | Rule 4. Minor..... | 6 |
| 3. | Articles and Pronominal Indefinite Adjectives..... | 7 |
| | Rule 1. Preference for articles..... | 7 |
| | Rule 2. "Each"..... | 7 |
| | Rule 3. Indefinite articles..... | 7 |
| | Rule 4. Definite article..... | 8 |
| 4. | Capitalization..... | 9 |
| | Rule 1. Proper nouns..... | 9 |
| | Rule 2. Short words..... | 9 |
| | Rule 3. Names of acts..... | 9 |
| | Rule 4. Constitution and Declaration of Rights..... | 10 |
| | Rule 5. Official governmental offices..... | 10 |
| | Rule 6. Courts..... | 10 |

| <u>Chapter</u> | <u>Title</u> | <u>Page</u> |
|----------------|---|-------------|
| | Rule 7. Governmental agencies..... | 11 |
| | Rule 8. Reference list..... | 11 |
| 5. | Citation of and Cross-References to Statutes..... | 13 |
| | Rule 1. Avoid cross-references..... | 13 |
| | Rule 2. State larger unit first..... | 13 |
| | Rule 3. Cite using smallest common unit..... | 13 |
| | Rule 4. Designations of combined statutory units..... | 14 |
| | Rule 5. Use of "of" in citation..... | 15 |
| | Rule 6. Citation of revised articles..... | 16 |
| | Rule 7. Citation of unrevised articles..... | 16 |
| | Rule 8. Citation of federal statutes..... | 17 |
| | Rule 9. Series of sections..... | 17 |
| | Rule 10. Descriptions of statutes..... | 18 |
| | Rule 11. Reference to later amendments..... | 18 |
| | Rule 12. Citation by short title..... | 18 |
| | Rule 13. Short titles -- to include "Maryland"..... | 19 |
| | Rule 14. Same -- not to include year..... | 19 |
| | Rule 15. Maryland Rules of Procedure..... | 20 |
| | Rule 16. Maryland Constitution..... | 20 |
| | Rule 17. Maryland Declaration of Rights..... | 21 |
| | Rule 18. Use of computer searches..... | 21 |
| 6. | Conjunctions..... | 23 |
| | Rule 1. "And"..... | 23 |

| <u>Chapter</u> | <u>Title</u> | <u>Page</u> |
|----------------|---|-------------|
| | Rule 2. "And/or"..... | 23 |
| | Rule 3. Penalty provisions..... | 24 |
| 7. | Consistency..... | 27 |
| | Rule 1. Variations on defined terms..... | 27 |
| | Rule 2. Synonyms..... | 27 |
| | Rule 3. Revised articles drafted under former rules..... | 28 |
| 8. | Dates and Periods of Time..... | 29 |
| | Rule 1. Reference to month and day..... | 29 |
| | Rule 2. On or before..... | 29 |
| | Rule 3. On or after..... | 29 |
| | Rule 4. Specific intervals of time..... | 30 |
| | Rule 5. Future time periods..... | 30 |
| | Rule 6. Time periods surrounding event..... | 30 |
| | Rule 7. "Day" instead of "date" or "time"..... | 31 |
| 9. | Definitions..... | 33 |
| | Rule 1. When to use definitions..... | 33 |
| | Rule 2. Avoid reciting what is obvious..... | 33 |
| | Rule 3. Avoid "Humpty-Dumpty definitions"..... | 33 |
| | Rule 4. Avoid "1-shot definitions" and unused definitions..... | 33 |
| | Rule 5. Avoid "stuffed definitions"..... | 34 |
| | Rule 6. Placement and order of definitions..... | 35 |
| | Rule 7. "Means" definitions..... | 36 |

| <u>Chapter</u> | <u>Title</u> | <u>Page</u> |
|----------------|--|-------------|
| | Rule 8. "Includes" definitions..... | 36 |
| | Rule 9. "Does not include" definitions..... | 36 |
| | Rule 10. Composite definitions..... | 37 |
| | Rule 11. Conjunctions in definitions..... | 37 |
| | Rule 12. Parallel construction of definitions..... | 38 |
| | Rule 13. Definitions and different parts of speech..... | 38 |
| | Rule 14. Defining by incorporation by reference..... | 39 |
| | Rule 15. Defined terms containing multiple words..... | 39 |
| | Rule 16. "Unless the context requires otherwise"..... | 40 |
| 10. | Exceptions, Conditions, and Limitations..... | 41 |
| | Rule 1. State exceptions and limitations early..... | 41 |
| | Rule 2. "If" versus "when"..... | 41 |
| | Rule 3. "Whenever" versus "when"..... | 42 |
| | Rule 4. "Whether" versus "if"..... | 42 |
| | Rule 5. Interlocking exceptions..... | 42 |
| 11. | Gender Neutral Language..... | 45 |
| | Rule 1. Use gender neutral language..... | 45 |
| | Rule 2. Subject matter that applies only to 1 sex..... | 46 |
| | Rule 3. Names and organizational titles..... | 46 |
| 12. | Language to Avoid..... | 49 |
| | Rule 1. Dual meaning of prefix "bi"..... | 49 |

| <u>Chapter</u> | <u>Title</u> | <u>Page</u> |
|----------------|---|-------------|
| | Rule 2. Latinisms..... | 49 |
| | Rule 3. Legalisms..... | 49 |
| | Rule 4. Archaic language..... | 50 |
| 13. | Modifiers..... | 51 |
| | Rule 1. Placement in general..... | 51 |
| | Rule 2. Clear association..... | 51 |
| | Rule 3. Avoid "squinting" modifiers..... | 51 |
| | Rule 4. Ambiguous modifiers in series..... | 52 |
| | Rule 5. "State" in names of agencies and officials..... | 53 |
| 14. | Money..... | 55 |
| | Rule 1. Whole dollar amounts..... | 55 |
| | Rule 2. Amounts less than \$1..... | 55 |
| | Rule 3. Dollars and cents combined..... | 55 |
| 15. | Numbers and Percentages..... | 57 |
| | Rule 1. Cardinal numbers -- in general..... | 57 |
| | Rule 2. Same -- large numbers..... | 57 |
| | Rule 3. Same -- large numbers in words..... | 58 |
| | Rule 4. Ordinal numbers..... | 58 |
| | Rule 5. Decimal fractions..... | 58 |
| | Rule 6. Other fractions..... | 59 |
| | Rule 7. Use of percent symbol; percentages preferred over fractions..... | 59 |
| | Rule 8. Fraction of a percent..... | 60 |

| <u>Chapter</u> | <u>Title</u> | <u>Page</u> |
|----------------|--|-------------|
| | Rule 9. "Majority" versus "51%"..... | 60 |
| 16. | Organization of Sections and Larger Statutory Units..... | 61 |
| | Rule 1. Standard organization..... | 61 |
| | Rule 2. Section composition..... | 62 |
| | Rule 3. Subdivision of sections..... | 62 |
| | Rule 4. Section designation..... | 63 |
| | Rule 5. Adding title to enacted revised article..... | 64 |
| | Rule 6. Adding subtitle to enacted revised article..... | 64 |
| | Rule 7. Adding new section to enacted revised article..... | 64 |
| | Rule 8. Adding new subsection, paragraph, item, subparagraph, or subitem to enacted revised article..... | 65 |
| | Rule 9. Special designations when adding new subsection to enacted revised article..... | 65 |
| 17. | Powers, Prohibitions, Requirements, and Rights; Use of "May", "Must", and "Shall"..... | 67 |
| | Rule 1. Right, privilege, or power..... | 67 |
| | Rule 2. Prohibition..... | 67 |
| | Rule 3. Mandatory obligation to act..... | 68 |
| | Rule 4. "Must" in conditions precedent..... | 68 |
| | Rule 5. "Shall" as forming future tense..... | 68 |
| 18. | Pronouns..... | 69 |

| <u>Chapter</u> | <u>Title</u> | <u>Page</u> |
|----------------|--|-------------|
| | Rule 1. Clear antecedents..... | 69 |
| | Rule 2. Pronoun-antecedent agreement..... | 69 |
| | Rule 3. Improperly vague pronouns..... | 69 |
| 19. | Punctuation..... | 71 |
| | Rule 1. Dependence on punctuation..... | 71 |
| | Rule 2. Series..... | 71 |
| | Rule 3. Paired commas..... | 71 |
| | Rule 4. Do not set off restrictive clauses..... | 72 |
| | Rule 5. Sentences containing 2 independent clauses..... | 72 |
| | Rule 6. Commas with 2 separate predicates..... | 73 |
| | Rule 7. Punctuation of material in quotation marks..... | 73 |
| | Rule 8. Parentheses..... | 73 |
| | Rule 9. Apostrophe..... | 74 |
| 20. | Relative Pronouns..... | 75 |
| | Rule 1. "Who"; "whose"..... | 75 |
| | Rule 2. "That"; "which"..... | 75 |
| 21. | Sentence Length and Structure..... | 77 |
| | Rule 1. Simple sentences..... | 77 |
| | Rule 2. Usual structure..... | 77 |
| 22. | Tabulation..... | 79 |
| | Rule 1. Parallelism..... | 79 |

| <u>Chapter</u> | <u>Title</u> | <u>Page</u> |
|----------------|---|-------------|
| | Rule 2. Contextual coordination..... | 80 |
| | Rule 3. "Splitting" prepositions and objects..... | 81 |
| | Rule 4. Continuing sentence or paragraph..... | 81 |
| | Rule 5. Form and punctuation..... | 82 |
| | Rule 6. Capitalization..... | 83 |
| | Rule 7. Subtabulation -- sequence..... | 83 |
| | Rule 8. Same -- maximum extent..... | 84 |
| 23. | Verbs..... | 85 |
| | Rule 1. Present tense; present perfect tense..... | 85 |
| | Rule 2. Active voice; passive voice..... | 85 |
| | Rule 3. Indicative mood..... | 85 |
| | Rule 4. "Splitting" verbs..... | 86 |
| 24. | Word Choice..... | 87 |
| | Rule 1. "Adopt"..... | 87 |
| | Rule 2. "County" and "Baltimore City"..... | 87 |
| | Rule 3. "Completely"; "wholly"; "partly"; "partially"..... | 87 |
| | Rule 4. "Data" versus "information"..... | 88 |
| | Rule 5. "Deem" and "consider"..... | 88 |
| | Rule 6. Mail -- "registered" and "certified"..... | 88 |
| | Rule 7. "Municipality" and "municipal corporation"..... | 89 |
| | Rule 8. "Oath" and "affirmation"..... | 89 |
| | Rule 9. "Pass" an order..... | 89 |
| | Rule 10. "Person" and "individual"..... | 90 |

| <u>Chapter</u> | <u>Title</u> | <u>Page</u> |
|----------------|--|-------------|
| Rule 11. | "Person" and "the State"..... | 90 |
| Rule 12. | "Political subdivision" and "county"..... | 91 |
| Rule 13. | "Residence"; "domicile"; "address"..... | 91 |
| Rule 14. | "Such"..... | 91 |
| Rule 15. | Circumlocution..... | 92 |
| Rule 16. | Imprecise words of reference..... | 92 |
| Rule 17. | Prepositions and conjunctions..... | 92 |
| Rule 18. | Simple words..... | 92 |
| Rule 19. | Unnecessary words..... | 93 |
| Rule 20. | Verbs and abstract nouns..... | 93 |
| Rule 21. | Noun overuse..... | 93 |
| Rule 22. | Preference for singular..... | 94 |
| Rule 23. | Standard terminology..... | 94 |
| Rule 24. | Miscellaneous preferred word choices..... | 95 |
| 25. | Word Order..... | 101 |
| Rule 1. | Proximity of subject and verb..... | 101 |
| Rule 2. | Proximity of verb and object or predicate noun..... | 101 |
| INDEX..... | | 103 |

CHAPTER 1. INTRODUCTION TO STYLE MANUAL.

This is the style manual for drafting statutory law in Maryland. The rules in this manual apply most directly to the articles of the Annotated Code of Maryland that have been prepared by the Commission to Revise the Annotated Code. However, to the extent practicable, these rules are to be followed in preparing any legislation for the General Assembly.

Comparison with Previous Manual

This manual is based on the Style Manual for the Commission to Revise the Annotated Code of Maryland and the Maryland Revisor of Statutes, published December 1, 1983, and is largely identical to that earlier version. However, numerous technical corrections and a limited number of changes in rules have been made in this version, and the first four appendices to the previous manual have been either incorporated into the numbered chapters or deleted as inapplicable to the general statutory drafting process.

Application of Manual

Statutory drafting is a form of formal writing. Consequently, many of the rules in this manual are simply generally accepted rules for formal writing, included for emphasis and ease of reference. This manual is not intended to

include all the rules for formal writing. Therefore, unless to do so would violate a rule in this manual, the regular rules for formal writing are to be followed in drafting Maryland legislation.

In some instances, considerations unique to statutory drafting dictate rules that are more restrictive than or even contradict the regular rules for formal writing. For example, this manual mandates that a comma or period that is not part of the quoted material be placed outside quotation marks. Furthermore, some of the rules in this manual are purely arbitrary, having been established purely to foster consistency in legislative drafting. Thus, for example, Rule 1 in Chapter 2 of this manual provides that the language "under the age of 16 years" is correct and that "less than 16 years old" is not. Either of the quoted expressions is grammatically acceptable, but, for consistency, Rule 1 in Chapter 2 makes "under the age of 16 years" the correct choice for statutory drafting.

In some situations, legal or policy considerations may require a departure from the rules in this manual. This manual is a tool for creating better statutes and should never be an impediment to drafting legislation that means precisely what its sponsors intend.

History and Adoption of Manual

The previous version of this manual was adopted by the Commission to Revise the Annotated Code of Maryland on the recommendation of its Style Committee, which consisted of the Honorable William S. James, Commission Chairman, and Commissioners Avery Aisenstark, Esquire, Lowell R. Bowen, Esquire, and Franklin B. Olmsted, Esquire. William M. Ferris, Esquire, staff counsel to the Style Committee, authored that version of the manual with significant contributions from Gary M. Hyman, Esquire, and Mrs. Marie Marangoni and with extensive review by and direction from the Style Committee.

This revised version of the style manual was prepared by William M. Ferris, Esquire, and reviewed, approved, and adopted by the Maryland Revisor of Statutes in accordance with § 2-1318(c)(6) of the State Government Article of the Annotated Code of Maryland.

Geoffrey D. Cant
Revisor of Statutes

STYLE MANUAL - 1985 Edition
12/5/85 Ferris

CHAPTER 2. AGE.

1. YOUNGER THAN SPECIFIED AGE. USE THE LANGUAGE "UNDER THE AGE OF _____ YEARS" TO REFER TO AN INDIVIDUAL YOUNGER THAN A SPECIFIED AGE.

Example.

Use

An individual under the age of 12 years may not...

Do not use

An individual less than 12 years old may not...

2. AT LEAST SPECIFIED AGE. USE THE PHRASE "AT LEAST _____ YEARS OLD" TO REFER TO AN INDIVIDUAL OF A MINIMUM SPECIFIED AGE.

Examples.

Use

An individual at least 19 years old may...

An individual at least 20 years old may...

Do not use

An individual 19 years old may...

An individual 20 years old or older may...

3. ADULT. USE THE WORD "ADULT" TO REFER TO AN INDIVIDUAL WHO IS AT LEAST 18 YEARS OLD.

Examples.

Use

adult

adult

Do not use

at least 18 years old

of full age

adult

of legal age

adult

age of majority

4. MINOR. IF A PROVISION RELATES TO LEGAL AGE AND CAPACITY, USE THE WORD "MINOR" INSTEAD OF "INDIVIDUAL UNDER THE AGE OF 18 YEARS".

Example.

Use

A minor who is at least 15
years old may contract for...

Do not use

An individual who is at least
15 years old but under the
age of 18 years may contract
for...

Discussion. See Article 1, § 24 of the Code.

CHAPTER 3. ARTICLES AND PRONOMINAL INDEFINITE ADJECTIVES.

1. PREFERENCE FOR ARTICLES. UNLESS ANOTHER RULE REQUIRES OTHERWISE, USE THE ARTICLES "A", "AN", AND "THE" INSTEAD OF THE PRONOMINAL INDEFINITE ADJECTIVES "ALL", "ANY", "EACH", AND "EVERY".

Example.

Use

A person who violates this section is guilty...

Do not use

Each person who violates this section is guilty...

2. "EACH". IF USING AN ARTICLE WOULD ALLOW THE UNINTENDED INTERPRETATION THAT AN OBLIGATION MAY BE DISCHARGED BY APPLYING IT TO A SINGLE MEMBER OF A CLASS, RATHER THAN TO ALL OF THE MEMBERS, USE "EACH" INSTEAD OF AN ARTICLE OR THE WORD "EVERY".

Examples.

Use

Each appointee to the Board shall take the oath ...

Each appointee to the Board shall take the oath ...

Do not use

An appointee to the Board shall take the oath ...

Every appointee to the Board shall take the oath ...

3. INDEFINITE ARTICLES. USE THE INDEFINITE ARTICLES "A" OR "AN" BEFORE A NOUN THAT IS INTENDED TO BE A GENERAL REFERENCE.

Example.

Use

A license expires on the first anniversary of its effective date, unless...

Do not use

The license expires on the first anniversary of its effective date, unless...

4. DEFINITE ARTICLE. USE THE DEFINITE ARTICLE "THE" PRECEDING A NOUN THAT IS INTENDED TO BE A SPECIFIC REFERENCE.

Example.

Use

A license expires on ...
unless the license is
renewed...

Do not use

A license expires on ...
unless a license is
renewed...

CHAPTER 4. CAPITALIZATION.

1. PROPER NOUNS. CAPITALIZE PROPER NOUNS AND COMMON NOUNS USED AS PROPER NOUNS.

Example.

| <u>Use</u> | <u>Do not use</u> |
|------------------------|------------------------|
| University of Maryland | university of Maryland |

2. SHORT WORDS. UNLESS IT IS THE FIRST WORD OF A SENTENCE OR A PROPER NAME, DO NOT NORMALLY CAPITALIZE A CONJUNCTION CONTAINING LESS THAN 5 LETTERS, A PREPOSITION CONTAINING LESS THAN 5 LETTERS, OR AN ARTICLE.

Example.

| <u>Use</u> | <u>Do not use</u> |
|---------------------------|---------------------------|
| Board of Dental Examiners | Board Of Dental Examiners |

3. NAMES OF ACTS. EXCEPT AS OTHERWISE PROVIDED IN RULE 2 OF THIS CHAPTER, CAPITALIZE THE FIRST WORD AND EACH OTHER WORD IN THE NAME OF AN ACT.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|---|---|
| Maryland Uniform Reciprocal Enforcement of Support Act | Maryland Uniform Reciprocal Enforcement Of Support act |
| Maryland Audiologists Act | Maryland Audiologists act |

4. CONSTITUTION AND DECLARATION OF RIGHTS. EXCEPT AS OTHERWISE PROVIDED IN RULE 2 OF THIS CHAPTER, CAPITALIZE EACH WORD THAT REFERS TO THE CONSTITUTION.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|--------------------------------|--------------------------------|
| Maryland Constitution | Maryland constitution |
| Maryland Declaration of Rights | Maryland declaration of Rights |

5. OFFICIAL GOVERNMENTAL OFFICES. EXCEPT AS OTHERWISE PROVIDED IN RULE 2 OF THIS CHAPTER, CAPITALIZE EACH WORD IN THE NAME OF A PARTICULAR OFFICIAL GOVERNMENTAL OFFICE.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|-------------------------------------|-------------------------------------|
| Speaker of the House | Speaker Of The House |
| President of the Senate | president of the Senate |
| the Governor | a governor |
| Secretary of State | Secretary Of State |
| State's Attorney | State's attorney |
| judge | Judge |
| Chief Judge of the Court of Appeals | chief judge of the Court of Appeals |

6. COURTS. EXCEPT AS OTHERWISE PROVIDED IN RULE 2 OF THIS CHAPTER, CAPITALIZE EACH WORD IN THE FULL, OFFICIAL NAME OF A

PARTICULAR COURT. DO NOT CAPITALIZE WORDS THAT ARE PART OF A GENERAL REFERENCE TO A COURT OR A GROUP OF COURTS.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|---------------------------------|---------------------------------|
| Court of Appeals | Court Of Appeals |
| Court of Special Appeals | Court of special Appeals |
| Circuit Court for Howard County | circuit court for Howard County |
| a circuit court | a Circuit Court |
| District Court | district court |
| a court | a Court |
| equity court | Equity Court |

Discussion. There is only 1 District Court of Maryland, but there are a number of circuit courts.

7. GOVERNMENTAL AGENCIES. EXCEPT AS OTHERWISE PROVIDED IN RULE 2 OF THIS CHAPTER, CAPITALIZE EACH WORD IN THE FULL NAME OF A GOVERNMENTAL AGENCY.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|--|--|
| Department of Licensing and Regulation | Department Of Licensing And Regulation |
| Department of Agriculture | department of Agriculture |

8. REFERENCE LIST. THE FOLLOWING SITUATIONS, WHICH FREQUENTLY OCCUR IN LEGISLATION, SOMETIMES RAISE QUESTIONS

REGARDING CAPITALIZATION.

Capitalize

(1) Capitalize the first word following an enacting or resolving clause -- e.g., "Resolved, That ..."

(2) Capitalize the first word following "Whereas" in resolutions -- e.g., "Whereas, The ..."

(3) Capitalize a specific reference:

"Senate Bill 616"; "House Bill 1"

"the Little Gunpowder Falls Bridge Bond"

"the Vermont Savings and Loan Association"

(4) Capitalize specific numbered references to units of the Code:

"Title 20"

"Subtitle 5"

"Article 27"

Do not capitalize

Do not capitalize a word merely because it is the first word following a colon.

Do not capitalize a word merely because it is the first word following a semicolon.

Do not capitalize general references:

"the bill"; "bills"

"bond"; "the bonds"

"savings and loan association"

Do not capitalize unnumbered references to units of the Code:

"this title"

"this subtitle"

"this article"

Caveat. The short titles of only some federal acts include the word "Federal". Because its short title includes the word "Federal", it is correct to cite the "Federal Hazardous Substances Act". On the other hand, the short title of the "Safe Drinking Water Act" does not include the word "Federal", so that act is cited as the "federal Safe Drinking Water Act".

CHAPTER 5. CITATION OF AND CROSS-REFERENCES TO STATUTES.

1. AVOID CROSS-REFERENCES. AVOID CROSS-REFERENCES TO OTHER STATUTES.

Discussion. Amendments to the cross-referenced statute can create problems. For example, a cross-reference to a subsection may become incorrect because of the addition of a new subsection to the section that contains the cross-referenced subsection.

2. STATE LARGER UNIT FIRST. EXCEPT FOR A REFERENCE TO THE SMALLEST COMMON UNIT, E.G., "OF THIS SECTION", OR IF CITING A PROVISION IN A REVISED ARTICLE OTHER THAN THE ARTICLE IN WHICH THE CITATION APPEARS, STATE THE LARGER UNIT OF A STATUTE FIRST.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|------------------------------------|------------------------------|
| § 4-302(a) of this title | Subsection (a) of § 4-302 |
| Article 41, § 15 of the Code | § 15 of Article 41 |
| Title 8, Subtitle 4 | Subtitle 4 of Title 8 |
| § 1-101 of the Agriculture Article | Agriculture Article, § 1-101 |

3. CITE USING SMALLEST COMMON UNIT. UNLESS THE SMALLEST COMMON UNIT IS A PART, CITE ANOTHER PROVISION IN THE CODE USING, AS THE PRIMARY POINT OF REFERENCE, THE SMALLEST UNIT THAT IS COMMON TO THE STATUTE CITED AND THE STATUTE CONTAINING THE CITATION. IF THE SMALLEST COMMON UNIT IS A PART, USE THE COMMON

SUBTITLE AS THE PRIMARY POINT OF REFERENCE.

Examples (assuming that each example is in § 1-101(b)(2)(ii) of the Financial Institutions Article and that Subtitle 1 of Title 1, of the Financial Institutions Article is divided into parts).

| <u>Use</u> | <u>Do not use</u> |
|-------------------------------------|---|
| item (i) of this paragraph | subsection (b)(2)(i) of this section |
| paragraph (1) of this subsection | subsection (b)(1) of this section |
| subsection (a) of this section | § 1-101(a) of this article |
| § 1-102 of this subtitle | § 1-102 of this Part I of this subtitle |
| § 1-201 of this title | § 1-201 of this article |
| § 2-101 of this article | § 2-101 of the Financial Institutions Article |
| Title 2, Subtitle 1 of this article | Title 2, Subtitle 1 of the Financial Institutions Article |

4. DESIGNATIONS OF COMBINED STATUTORY UNITS. USE A SINGLE SECTION SYMBOL ("§") TO CITE ANY NUMBER OF COMPONENT PARTS OF ANOTHER SINGLE SECTION. USE 2 SECTION SYMBOLS TO CITE CONJUNCTIVELY TO 2 OR MORE OTHER SECTIONS OR TO PROVISIONS IN 2 OR MORE OTHER SECTIONS. USE A SINGLE SECTION SYMBOL BEFORE EACH SECTION REFERENCE IF THE SECTION REFERENCES ARE JOINED BY "OR".

Examples.

| <u>Use</u> | <u>Do not use</u> |
|--------------------------|---------------------------|
| § 2-411(a) and (c) | §§ 2-411(a) and (c) |
| §§ 2-411 and 2-415 | § 2-411 and § 2-415 |
| §§ 2-411(b) and 2-415(c) | § 2-411(b) and § 2-415(c) |
| § 2-411 or § 2-412 | §§ 2-411 or 2-412 |
| § 2-411(b) or § 2-415(c) | §§ 2-411(b) or 2-415(c) |
| § 5, § 8, or § 14 | §§ 5, 8, or 14 |
| §§ 5 and 8 or § 14 | § 5 and § 8 or § 14 |

5. USE OF "OF" IN CITATION. IN A CITATION, USE THE WORD "OF" BEFORE THE REFERENCE TO THE SMALLEST COMMON UNIT.

Examples (assuming that each example is in § 1-201(b) of the Natural Resources Article).

| <u>Use</u> | <u>Do not use</u> |
|--|---|
| subsection (a) of this section | subsection (a) |
| § 1-202 of this subtitle | § 1-202 |
| § 1-301 of this title | § 1-301 |
| § 2-301 of this article | § 2-301 of the Natural Resources Article |
| Article 41, § 15 of the Code | Article 41, § 15 |
| § 3-204 of the Health Occupations Article | HO § 3-204 |
| Title 3, Subtitle 2A of the Courts Article | Subtitle 2A of the Courts Article Title 3 |

6. CITATION OF REVISED ARTICLES. DO NOT USE THE CONCLUDING PHRASE "OF THE CODE" IN A REFERENCE TO A REVISED ARTICLE. THE PROPER WAY TO CITE A PROVISION IN A REVISED ARTICLE IS SHOWN IN ARTICLE 1, § 25 OF THE CODE.

Caveat. Article 1, § 25 of the Code essentially provides that a section in a revised article is cited as "§ _____ of the _____ Article". However, a section in the Courts and Judicial Proceedings Article is cited as "§ _____ of the Courts Article".

Discussion. The words "of the Code" following a reference to an unrevised article prevent confusion since some references to county codes are otherwise identical. Since no county code reference could be confused with a reference to a revised article, the words "of the Code" are not needed in a reference to a revised article.

7. CITATION OF UNREVISED ARTICLES. CITE A PROVISION IN AN UNREVISED ARTICLE BY THE WORD "ARTICLE" FOLLOWED, IN ORDER, BY THE NUMBER OF THE ARTICLE, A COMMA, A SECTION SYMBOL ("§") OR SYMBOLS, AS APPROPRIATE, THE NUMBER OF THE SECTION OR SECTIONS, AND THE WORDS "OF THE CODE".

Examples.

| <u>Use</u> | <u>Do not use</u> |
|--------------------------------------|--|
| Article 1, § 21 of the Code | § 21 of Article 1 of the Code |
| Article 10, §§ 34 and 35 of the Code | §§ 34 and 35 of Article 10 of the Code |

Caveat. In general, do not cite to the unit designations "titles" and "subtitles" in the unrevised articles. With a few exceptions, the unrevised articles are organized differently from the revised articles. The subunit designations in an unrevised article also often differ from what they would be in a revised

article. See, e.g., Article 48A of the Code, in which the "subtitles" would be revised "titles". Consequently, to refer to a group of sections in an unrevised article, it is normally better to cite to the section numbers rather than to a subtitle or other subunit larger than a section.

Discussion: See the Discussion following Rule 6 of this chapter.

8. CITATION OF FEDERAL STATUTES. IF A FEDERAL STATUTE CANNOT BE CITED BY SHORT TITLE OR NAME, CITE IT USING THE APPLICABLE SECTIONS OF THE UNITED STATES CODE. DO NOT CITE USING THE UNITED STATES CODE ANNOTATED OR ANY OTHER PRIVATE CODE SERVICE.

Example.

| <u>Use</u> | <u>Do not use</u> |
|-----------------|-------------------|
| 21 U.S.C. § 301 | 21 U.S.C.A. § 301 |

9. SERIES OF SECTIONS. TO REFER TO A SERIES OF CONSECUTIVE SECTIONS, JOIN THE FIRST AND LAST SECTIONS IN THE SERIES WITH THE WORD "THROUGH" INSTEAD OF A DASH, A HYPHEN, OR THE WORD "TO". AVOID USING "ET SEQ.".

Examples.

| <u>Use</u> | <u>Do not use</u> |
|------------------------|--------------------------------------|
| §§ 2-105 through 2-109 | §§ 2-105 -- 2-109 |
| §§ 3-201 through 3-207 | §§ 3-201 to 3-207 |
| §§ 4-516 through 4-525 | §§ 4-516 through 4-525, inclusive |

10. DESCRIPTIONS OF STATUTES. UNLESS IT IS NECESSARY TO DO SO, DO NOT INCLUDE A DESCRIPTION OF THE FUNCTION OF THE STATUTE IN A REFERENCE TO THAT STATUTE. IF IT IS NECESSARY TO INCLUDE A DESCRIPTION, MAKE CERTAIN THAT THE DESCRIPTION IS BRIEF AND ACCURATE.

Example (assuming that § 7-201 contains nothing except tag inscription requirements.)

Use

The requirements of this section are in addition to the requirements of § 7-201 of this article.

Do not use

The requirements of this section are in addition to the tag inscription requirements of § 7-201 of this article.

11. REFERENCE TO LATER AMENDMENTS. DO NOT USE "AS AMENDED FROM TIME TO TIME" WHEN REFERRING TO ANOTHER STATUTE.

Example.

Use

the Internal Revenue Code of 1954

Do not use

the Internal Revenue Code of 1954, as amended from time to time

Discussion. Article 1, § 21 of the Code provides that, unless there is language expressly providing otherwise, subsequent amendments automatically are included in a reference to a statute.

12. CITATION BY SHORT TITLE. NORMALLY CITE A STATUTE USING ITS SHORT TITLE OR NAME.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|----------------------------------|---|
| Federal Hazardous Substances Act | 15 U.S.C. § 1261 et seq. |
| Maryland Dentistry Act | Title 4 of the Health Occupations Article |

Discussion. The defect in the disapproved version above is that 15 U.S.C. § 1261 et seq. is the Federal Hazardous Substances Act, and the short title is preferred over a reference to sections of the United States Code. As to the short titles of federal acts, see also the caveat to Rule 8 in Chapter 4 of this manual.

13. SHORT TITLES -- TO INCLUDE "MARYLAND". WHEN CREATING A NEW SHORT TITLE, INCLUDE THE WORD "MARYLAND" AT THE BEGINNING OF THE SHORT TITLE OF A MARYLAND ACT.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|----------------------------------|-----------------------------------|
| Maryland Nurse Practice Act | Maryland State Nurse Practice Act |
| Maryland Chiropractic Act | State Chiropractic Act |
| Maryland Uniform Commercial Code | The Uniform Commercial Code |

Discussion. As to the use of "State" in the names of State agencies or officials, see Chapter 13 of this manual.

14. SAME -- NOT TO INCLUDE YEAR. DO NOT INCLUDE THE YEAR IN THE SHORT TITLE OF A MARYLAND ACT. IF A YEAR APPEARS IN THE SHORT TITLE OF A MARYLAND ACT, DELETE THE YEAR WHEN REVISING THAT LAW.

Example.

Use

Maryland Audiologists Act

Do not use

Maryland Audiologists Act of
1981

15. MARYLAND RULES OF PROCEDURE. CITE A RULE IN THE MARYLAND RULES OF PROCEDURE BY THE WORDS "MARYLAND RULE" FOLLOWED, IN ORDER, BY THE NUMBER OF THE RULE AND THE SUBDIVISION DESIGNATION, IF ANY.

Examples.

Use

Maryland Rule 5d

Maryland Rule 417

Do not use

Rule 5d of the Maryland Rules

Md. Rule 417

16. MARYLAND CONSTITUTION. CITE A SECTION OF THE MARYLAND CONSTITUTION BY THE WORD "ARTICLE" FOLLOWED, IN ORDER, BY THE NUMBER OF THE ARTICLE (IN ROMAN NUMERALS), A COMMA, A SECTION SYMBOL ("§"), THE NUMBER OF THE SECTION, AND THE WORDS "OF THE MARYLAND CONSTITUTION".

Examples.

Use

Article III, § 32 of the
Maryland Constitution

Article III, § 32 of the
Maryland Constitution

Do not use

Maryland Constitution,
Article III, § 32

Article III, § 32 of the
State Constitution

Caveat. This rule and Rule 17 of this chapter represent a departure from the rule followed in many revised articles.

17. MARYLAND DECLARATION OF RIGHTS. CITE AN ARTICLE OF THE MARYLAND DECLARATION OF RIGHTS BY THE WORD "ARTICLE" FOLLOWED, IN ORDER, BY THE NUMBER OF THE ARTICLE AND THE WORDS "OF THE MARYLAND DECLARATION OF RIGHTS".

Examples.

| <u>Use</u> | <u>Do not use</u> |
|--|---|
| Article 46 of the Maryland Declaration of Rights | Maryland Declaration of Rights, Article 46 |
| Article 46 of the Maryland Declaration of Rights | Article 46 of the State Declaration of Rights |

Caveat. See the caveat to Rule 16 of this chapter.

18. USE OF COMPUTER SEARCHES. WHENEVER A STATUTE IS REPEALED OR REDESIGNATED, SEARCH THE CODE FOR REFERENCES TO THAT STATUTE AND CHANGE THOSE REFERENCES AS APPROPRIATE.

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12/5/85 Ferris

CHAPTER 6. CONJUNCTIONS.

1. "AND". USE "AND" TO CONNECT REQUIREMENTS THAT ARE ADDITIVE TO EACH OTHER.

Example.

| <u>Use</u> | <u>Do not use</u> |
|---|---|
| The notice shall state: (1) the date, time, and place of the hearing; and (2) the purpose of the hearing. | The notice shall state: (1) the date, time, or place of the hearing; or (2) the purpose of the hearing. |

Discussion. The defect in the disapproved version above is that it would be satisfied by a notice that contained only the date of the hearing but not its time, place, or purpose. To comply with the approved version, a notice would need to include all 4 elements of information.

2. "AND/OR". NEVER USE "AND/OR". USE "OR", "OR ... OR BOTH", "OR ANY OF THESE", OR SIMILAR LANGUAGE, AS APPROPRIATE, INSTEAD.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|--|--|
| "Authorized prescriber" means any licensed dentist, licensed physician, licensed podiatrist, or licensed veterinarian. | "Authorized prescriber" means any licensed dentist, licensed physician, licensed podiatrist, and/or licensed veterinarian. |
| ... on conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 90 days or both. | ... on conviction is subject to a fine not exceeding \$500 and/or imprisonment not exceeding 90 days. |

Subject to the hearing provisions of this subtitle, the Department may reprimand any licensee, or suspend or revoke any license, if the licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license;

(2) fails to meet any applicable federal or State standard for removal or encapsulation of asbestos; or

(3) fails at any time to meet:

(i) the qualifications for a license; or

(ii) any rule or regulation that the Department adopts under this subtitle.

Subject to the hearing provisions of this subtitle, the Department may reprimand any licensee, or suspend or revoke any license, if the licensee:

(1) fraudulently or deceptively obtains or attempts to obtain a license;

(2) fails to meet any applicable federal or State standard for removal or encapsulation of asbestos; and

(3) fails at any time to meet:

(i) the qualifications for a license; and

(ii) any rule or regulation that the Department adopts under this subtitle.

Caveat. A variation in tabulation can result in a different conjunction being appropriate. See the examples in R. Dickerson, The Fundamentals of Legal Drafting § 6.2 (1965).

3. PENALTY PROVISIONS. IN PENALTY PROVISIONS THAT PROVIDE FOR BOTH FINE AND IMPRISONMENT, INCLUDE THE WORDS "OR BOTH" OR "BUT NOT BOTH", AS APPROPRIATE.

Example.

Use

A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 6 months or both.

Do not use

A person who violates any provision of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 6 months.

CROSS-REFERENCES.

Conjunctions in definitions -- See Chapter 9. "Definitions".

Conjunctions in tabulations -- See Chapter 22. "Tabulation".

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CHAPTER 7. CONSISTENCY.

1. VARIATIONS ON DEFINED TERMS. ONCE A TERM IS DEFINED, DO NOT USE VARIATIONS OF THAT TERM IN THE STATUTE TO WHICH THE DEFINITION APPLIES.

Example (assuming that "community sewerage system" and "multiuse sewerage system" are each defined separately for the relevant statute).

Use

community sewerage system or
multiuse sewerage system

Do not use

community or multiuse
sewerage system

Exceptions. Variations on verb forms are permitted; e.g., if "practice" is defined, use of "practiced" is acceptable. Also, if the meaning of the variation is indisputably clear and adherence to this rule would result in an extremely convoluted statute, it is permissible to use a variation on a defined term. See, e.g., the note concerning the meaning of "licensee" in the revisor's note to the definition of "license" in § 4-101(h) of the Health Occupations Article.

2. SYNONYMS. DO NOT USE BOTH A WORD AND ITS SYNONYM, EVEN IF A DEFINED TERM IS NOT INVOLVED.

Example (assuming that the reference to a "certificate" is intended to mean the license).

Use

The Board shall include on
each license that the Board
issues:

...
(2) the date on which the
license was issued;

...

Do not use

The Board shall include on
each license that the Board
issues:

...
(2) the date the
certificate was issued;

...

Discussion. See the discussion on "elegant variation" in R. Dickerson, The Fundamentals of Legal Drafting § 2.3 (1965).

3. REVISED ARTICLES DRAFTED UNDER FORMER RULES. GENERALLY, IN DRAFTING A BILL THAT AMENDS A REVISED ARTICLE ENACTED IN OR BEFORE 1984, FOLLOW THE RULES OF STYLE THAT WERE APPLIED TO THAT ARTICLE, EVEN IF THOSE RULES DIFFER FROM THE RULES IN THIS MANUAL. HOWEVER, DO NOT WASTE TIME ATTEMPTING TO LEARN OLD STYLE RULES. IF IN DOUBT, FOLLOW THE RULES IN THIS MANUAL.

Example. In some revised articles, the first word in each tabulated item is capitalized. See, e.g., § 6-122 of the Health-General Article. Despite Rule 6 in Chapter 22 of this manual, a bill that amends that section should follow the old rule that the first word in each tabulated item is capitalized.

CHAPTER 8. DATES AND PERIODS OF TIME.

1. REFERENCE TO MONTH AND DAY. TO REFER TO A DATE, USE THE MONTH FOLLOWED BY THE NUMERAL THAT CORRESPONDS TO THE DAY OF THE MONTH.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|------------|-------------------|
| July 1 | July one |
| July 2 | 2 July |
| July 3 | July third |
| July 4 | July 4th |
| July 5 | Fifth day of July |

2. ON OR BEFORE. SET A SPECIFIC CALENDAR DEADLINE BY USING THE PHRASE "ON OR BEFORE".

Example.

| <u>Use</u> | <u>Do not use</u> |
|----------------------|-------------------|
| on or before June 30 | before July 1 |

Discussion. Ordinarily, a reader remembers the date specified in the statute. The disapproved version above might mislead a casual reader into thinking that July 1 is the last date for action, when, in fact, July 1 is after the last day.

3. ON OR AFTER. SET A TIME PERIOD THAT RUNS FROM A SPECIFIC DATE BY USING THE PHRASE "ON OR AFTER".

Example.

Use

on or after July 1

Do not use

after June 30

4. SPECIFIC INTERVALS OF TIME. SET A SPECIFIC INTERVAL OF TIME BY USING THE WORD "FROM" FOLLOWED, IN ORDER, BY THE FIRST DATE THAT IS WITHIN THE INTERVAL, THE WORD "TO", THE LAST DATE THAT IS WITHIN THE INTERVAL, AND THE WORDS "BOTH INCLUSIVE" SET OFF WITH A COMMA.

Examples.

Use

from May 1 to June 27, both inclusive

from June 1 to July 27, both inclusive

Do not use

from May 1 to June 27

on or after June 1 and on or before July 27

5. FUTURE TIME PERIODS. USE "AFTER" TO STATE THAT AN ACT MAY BE DONE ONLY AFTER AN EVENT.

Example (assuming that it is intended that suit may not be filed until after birth).

Use

within 2 years after the child is born

Do not use

before the child is 2 years old

6. TIME PERIODS SURROUNDING EVENT. USE "BEFORE OR AFTER" TO STATE THAT AN ACT MAY BE DONE DURING A PERIOD MEASURED BEFORE AND AFTER AN EVENT.

Example (assuming that it is intended that the act may occur within 30 days before the event or 30 days after the event).

| <u>Use</u> | <u>Do not use</u> |
|--------------------------------|-------------------|
| within 30 days before or after | within 30 days of |

7. "DAY" INSTEAD OF "DATE" OR "TIME". IF A PERIOD IS MEASURED IN WHOLE DAYS, USE "DAY" INSTEAD OF "DATE" OR "TIME".

Examples.

| <u>Use</u> | <u>Do not use</u> |
|--------------------------------|--------------------------------|
| 30 days after the day on which | 30 days after the time when |
| 30 days after the day on which | 30 days from the date on which |

CROSS-REFERENCE.

"Biweekly" and similar words -- see Chapter 12. "Language to Avoid".

"Per annum" -- see Chapter 12. "Language to Avoid".

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12/5/85 Ferris

CHAPTER 9. DEFINITIONS.

1. WHEN TO USE DEFINITIONS. USE A DEFINITION TO AVOID VAGUENESS, AMBIGUITY, OR UNNECESSARY VERBOSITY.

2. AVOID RECITING WHAT IS OBVIOUS. IF A DEFINITION DOES NOT SERVE A PURPOSE, DO NOT INCLUDE IT.

Example of unnecessary definition.

"Calendar year" means a period of 12 months ending on December 31.

3. AVOID "HUMPTY-DUMPTY DEFINITIONS". DO NOT DEFINE A TERM TO HAVE A MEANING THAT IS CONTRARY TO WHAT THE TERM NORMALLY IS UNDERSTOOD TO MEAN.

Examples of unacceptable "Humpty-Dumpty definitions".

"Goods" means goods and real estate.

"Cow" means horse.

Discussion. The term "Humpty-Dumpty definition" is an allusion to Lewis Carroll's Through the Looking Glass, in which Humpty Dumpty tells Alice that he can make a word stand for whatever he pleases. See R. Dickerson, The Fundamentals of Legal Drafting § 7.1 (1965).

4. AVOID "1-SHOT DEFINITIONS" AND UNUSED DEFINITIONS. DO NOT DEFINE A TERM THAT IS USED ONCE OR NOT AT ALL OUTSIDE OF ITS OWN DEFINITION.

Example.

Use

The Secretary shall carry out a program to post and maintain in each facility that prepares food and provides seating for patrons a diagram that gives clear and illustrative directions on the use of manual maneuvers to assist choking victims.

Do not use

(a) In this section, "restaurant" means a facility that prepares food and provides seating for patrons.

(b) The Secretary shall carry out a program to post and maintain in each restaurant a diagram that gives clear and illustrative directions on the use of manual maneuvers to assist choking victims.

Exception. Normally a "1-shot definition" can be avoided by including the substance of the definition in the substantive provision in which the defined term appears. However, if the language otherwise would be extremely complicated and confusing to a reader, a "1-shot definition" may be appropriate.

Caveat. In the drafting or amending process, a defined term may be removed from the substantive text, creating an unused definition. To avoid this error, always check a completed draft or amended bill to ensure that there are no unused definitions.

5. AVOID "STUFFED DEFINITIONS". DO NOT INCLUDE A SUBSTANTIVE PROVISION, E.G., A PROHIBITION, IN A DEFINITION.

Example of unacceptable "stuffed definition".

In this subtitle, "label" means a display of written, printed, or graphic matter on the container, other than a package liner, of a substance, and, in order to comply with any requirement under this subtitle that a word, a statement, or any other information appear on the label of a substance, the word, statement, or other information shall:

- (1) be placed on the outside container or wrapper; or
- (2) be legible through the outside container or wrapper.

Discussion. The defect in the example above is that all the words following "and" (the 25th word) should be a separate substantive provision instead of being part of the definition. See §§ 4-101(k) and 4-203 of the Health-Environmental Article for the correct alternative to this example. See also R. Dickerson, The Fundamentals of Legal Drafting § 7.6 (1965) regarding "stuffed definitions".

6. PLACEMENT AND ORDER OF DEFINITIONS. PLACE A DEFINITION AT THE BEGINNING OF THE SMALLEST STATUTORY UNIT, E.G., SECTION OR SUBTITLE, TO WHICH THE DEFINITION APPLIES. IF THERE ARE MULTIPLE DEFINITIONS APPLICABLE TO THE SAME STATUTORY UNIT, PUT THEM IN ALPHABETICAL ORDER.

Discussion. If a definition is intended to apply to only a single section, that definition normally should be part of the section to which it applies. If only a single term is defined in the section, the first subsection of the section normally should read, e.g., "In this section, 'license' means ...". If multiple terms are defined for purposes of a single section, the first subsection of the section should be divided into paragraphs and paragraph (1) should read: "In this section the following words have the meanings indicated". The definitions should then be set forth in alphabetical order as paragraphs (2), (3), etc.

If a definition is intended to apply to more than a single section, the definition should be in a separate section. If only a single term is defined in that section, the section should begin, e.g., "In this title (or article, subtitle, etc.), 'Department' means ...". If multiple definitions are included in that section, the section should be divided into subsections and subsection (a) of that section should read, "In this title (or article, subtitle, etc.) the following words have the meanings indicated". The definitions should then be set forth in alphabetical order as subsections (b), (c), etc.

If a definition or a group of definitions applies to a title that is divided into subtitles (or a subtitle that is divided into parts), include the definition or group of definitions in a separate subtitle (or part), which also may include general provisions applicable to the entire title (or subtitle). Place definitions applicable to an entire article in Title 1 of the article, along with general provisions applicable to the entire

article. If both definitions and general provisions appear in the same statute, place the definitions first.

If there are no terms defined for a title, consider reserving the first section (or, if the title is divided into subtitles, the first subtitle) of the title for future additions of definitions.

7. "MEANS" DEFINITIONS. USE "MEANS" IF THE DEFINITION IS INTENDED TO BE EXHAUSTIVE.

Example (assuming that a reference to a single specific department is intended).

| <u>Use</u> | <u>Do not use</u> |
|---|--|
| "Department" means the Department of Agriculture. | "Department" includes the State Department of Agriculture. |

8. "INCLUDES" DEFINITIONS. USE "INCLUDES" IF THE DEFINITION IS INTENDED TO BE PARTIAL OR ILLUSTRATIVE.

Example.

| <u>Use</u> | <u>Do not use</u> |
|------------------------------------|---------------------------------|
| "Disinfect" includes to sterilize. | "Disinfect" means to sterilize. |

9. "DOES NOT INCLUDE" DEFINITIONS. USE "DOES NOT INCLUDE" IF A DEFINITION IS INTENDED TO BE EXCLUSIVE.

Example.

| <u>Use</u> | <u>Do not use</u> |
|---|--|
| In this section, "own" does not include to lease. | In this section, "own" does not mean to lease. |

10. COMPOSITE DEFINITIONS. A DEFINITION MAY CONTAIN A COMBINATION OF A "MEANS" CLAUSE WITH AN "INCLUDES" CLAUSE OR A "DOES NOT INCLUDE" CLAUSE OR BOTH. HOWEVER, DO NOT USE AN "INCLUDES" CLAUSE THAT EXPANDS THE "MEANS" CLAUSE OR A "DOES NOT INCLUDE" CLAUSE THAT CONTRADICTS THE "MEANS" CLAUSE.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|--|--|
| (b) "Authorized prescriber" means any licensed dentist, licensed physician, licensed podiatrist, or licensed veterinarian. | (b) (1) "Authorized prescriber" means any licensed dentist, licensed physician, or licensed podiatrist. (2) "Authorized prescriber" includes any licensed veterinarian. |
| (c) "County" means any county except Anne Arundel County and Baltimore City. | (c) (1) "County" means any county. (2) "County" does not include Anne Arundel County or Baltimore City. |

11. CONJUNCTIONS IN DEFINITIONS. IN A DEFINITION, IF THE CONJUNCTIONS "AND" AND "OR" SEEM EQUALLY APPROPRIATE, USE "OR" FOLLOWING "MEANS" AND "AND" FOLLOWING "INCLUDES".

Example of acceptable use of conjunctions.

- (i) (1) "Practice medicine" means to engage, with or without compensation, in medical:
- (i) diagnosis;
 - (ii) healing;
 - (iii) treatment; or
 - (iv) surgery.
- (2) "Practice medicine" includes doing, undertaking,

professing to do, and attempting any of the following:

(i) diagnosing, healing, treating, preventing, prescribing for, or removing any physical, mental, or emotional ailment or supposed ailment of an individual:

A. by physical, mental, emotional, or other process that is exercised or invoked by the practitioner, the patient, or both; or

B. by appliance, test, drug, operation, or treatment;

(ii) ending a human pregnancy; and

(iii) performing acupuncture.

(3) "Practice medicine" does not include:

(i) selling a nonprescription drug or medicine;

(ii) practicing as an optician; or

(iii) performing a massage or other manipulation by hand.

12. PARALLEL CONSTRUCTION OF DEFINITIONS. DEFINE A TERM USING A PART OF SPEECH COMPARABLE TO THE TERM DEFINED.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|--|---|
| "Drive" means to drive, operate, move, or be... | "Drive" means driving, operating, moving, or being... |
| "Driver" means an individual who drives a vehicle. | "Driver" means to be the individual who drives a vehicle. |
| "Practice pharmacy" means to engage in ... | "Practice pharmacy" means the act of engaging in ... |

Caveat. Be careful to determine what part of speech a defined word is intended to be. For example, "abuse" can be either a noun or a verb. See § 4-401(b) of the Family Law Article.

13. DEFINITIONS AND DIFFERENT PARTS OF SPEECH. IF A WORD IS DEFINED, NORMALLY USE THE WORD ONLY AS THAT PART OF SPEECH THAT CORRESPONDS TO THE DEFINITION.

Example (assuming that "abuse" is defined as a noun).

Use

a child who has been subjected
to abuse

Do not use

an abused child

14. DEFINING BY INCORPORATION BY REFERENCE. UNLESS THE INTENT IS THAT THE 2 DEFINITIONS BE IDENTICAL NO MATTER HOW THE INCORPORATED DEFINITION IS AMENDED, REPEAT A DEFINITION RATHER THAN INCORPORATING IT BY REFERENCE. IF A DEFINITION IS INCORPORATED BY REFERENCE, USE THE WORDS "HAS THE MEANING STATED IN".

Discussion: Occasionally, it may be appropriate to define a term by reference to a statutory unit to which the definition applies, e.g., "'Permit' means a permit issued under § 2-222 of this subtitle". However, this type of definition should be used sparingly.

Caveat. A risk inherent in incorporating a definition by reference is that the incorporated definition may be amended or even repealed. Therefore, when amending or repealing a definition, search the Code for cross-references to that definition.

15. DEFINED TERMS CONTAINING MULTIPLE WORDS. AVOID CREATING DEFINED TERMS THAT LEND THEMSELVES TO BEING DIVIDED IN THE SUBSTANTIVE TEXT OF THE STATUTE.

Example.

Use

In this section, "State"
means...

Do not use

In this section, "any state"
means...

Discussion. The defect in the disapproved version above is that a revisor attempting to refer to any state other than Maryland might use the term "any other state", thereby creating a question as to whether the definition of "any state" applies.

16. "UNLESS THE CONTEXT REQUIRES OTHERWISE". IN RARE INSTANCES, THE PHRASE "UNLESS THE CONTEXT REQUIRES OTHERWISE" IS APPROPRIATE IN A DEFINITION. AS A GENERAL RULE, DO NOT USE DEFINED TERMS IN A WAY THAT REQUIRES THE INCLUSION OF THIS PHRASE.

CROSS-REFERENCE.

Variations on defined terms -- See Chapter 7. "Consistency".

CHAPTER 10. EXCEPTIONS, CONDITIONS, AND LIMITATIONS.

1. STATE EXCEPTIONS AND LIMITATIONS EARLY. UNLESS TO DO SO WOULD IMPAIR THE CLARITY OF THE STATUTE, PLACE AN EXCEPTION OR LIMITATION AT THE EARLIEST POSSIBLE POINT IN THE STATUTORY UNIT TO WHICH IT APPLIES. IF THE EXCEPTION OR LIMITATION IS LONG OR COMPLICATED, INITIALLY STATE THAT THERE IS AN EXCEPTION OR LIMITATION AND THEN DETAIL THE EXCEPTION OR LIMITATION AT A LATER POINT IN THE STATUTE.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|---|---|
| With the prior approval of the governing body of the county affected, the State Highway Administration may designate ... | The State Highway Administration, with the prior approval of the governing body of the county affected, may designate ... |
| (a) Except as provided in subsection (b) of this section, a person who has been released on habeas corpus may not be imprisoned or committed in connection with the same offense. | A person who has been released on habeas corpus may not be imprisoned or committed in connection with the same offense, except: |
| (b) A person who has been released on habeas corpus may be imprisoned or committed in connection with the same offense: | (1) by order of the court for violation of the terms of release; |
| (1) by order of the court for violation of the terms of release; | (2) by order of ... |
| (2) by order of ... | |

2. "IF" VERSUS "WHEN". UNLESS A TIME ELEMENT IS INVOLVED, USE "IF", INSTEAD OF "WHEN", TO INTRODUCE A CONDITION.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|---|--|
| If the Bank Commissioner approves, a commercial bank may ... | When the Bank Commissioner approves, a commercial bank may ... |
| When the petitioner appears before the court, the court may ... | If the petitioner appears before the court, the court may ... |

3. "WHENEVER" VERSUS "WHEN". TO REFER TO A RECURRING EVENT, USE "WHENEVER" INSTEAD OF "WHEN".

Example (assuming that an emergency could occur more than once).

| <u>Use</u> | <u>Do not use</u> |
|--|--|
| Whenever the Secretary finds that an emergency exists, the Secretary may ... | When the Secretary finds that an emergency exists, the Secretary may ... |

4. "WHETHER" VERSUS "IF". IF THERE IS AN IMPLIED "OR NOT", USE "WHETHER" INSTEAD OF "IF".

Example.

| <u>Use</u> | <u>Do not use</u> |
|---|--|
| shall investigate whether the licensee is violating ... | shall investigate if the licensee is violating ... |

5. INTERLOCKING EXCEPTIONS. DO NOT USE "EXCEPT" AND "NOTWITHSTANDING" TO CREATE INTERLOCKING EXCEPTIONS.

Example.

Use

(a) Except as otherwise provided in this section, a person shall be licensed before the person

(b) A license is not required for

Do not use

(a) Except as otherwise provided in this section, a person shall be licensed before the person

(b) Notwithstanding subsection (a) of this section, a license is not required for

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12/5/85 Ferris

CHAPTER 11. GENDER NEUTRAL LANGUAGE.

1. USE GENDER NEUTRAL LANGUAGE. EXCEPT AS OTHERWISE PROVIDED IN RULES 2 AND 3 OF THIS CHAPTER, DO NOT USE WORDS THAT CONNOTE OR DENOTE GENDER DISTINCTIONS.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|--|--|
| the applicant's name | his name |
| on refusal to comply | on his refusal to comply |
| The officer shall file the report ... | The officer shall file his report ... |
| interfered with the Secretary in the performance of the Secretary's duties ... | interfered with the Secretary in the performance of his duties ... |
| If the individual is ... | If he/she is ... |
| If the individual is ... | If he or she is ... |

Discussion. This rule forbids the use of masculine or feminine pronouns in most cases. These pronouns normally may be avoided by 1 of the following methods:

(1) repeating the words that would have been the pronoun's antecedent reference, including, as appropriate, using the possessive form of a noun;

(2) omitting the pronoun, or the phrase that would include the pronoun, if the pronoun or phrase is not essential;

(3) using an article instead of a pronoun; or

(4) restructuring or rephrasing the statute to avoid the need for a pronoun, including, if necessary, using the passive voice.

Caveat. In avoiding pronouns that connote or denote gender

distinctions, be careful not to obscure the meaning of the statute in the process. In particular, remember that, although the rule against using the passive voice yields to the requirement to use gender neutral language, it is normally possible to obey both of these rules.

2. SUBJECT MATTER THAT APPLIES ONLY TO 1 SEX. WORDS THAT CONNOTE OR DENOTE GENDER DISTINCTIONS MAY BE USED IN A STATUTE THAT SPECIFICALLY APPLIES ONLY TO 1 SEX.

Examples.

Use

If the alleged father appears for trial without having filed a written answer, the court shall advise him of his right to ...

If the mother or pregnant woman is living, she shall be made a defendant.

Do not use

If the alleged father appears for trial without having filed a written answer, the court shall advise the alleged father of the alleged father's right to ...

If the mother or pregnant woman is living, the mother or pregnant woman may be made a defendant.

Caveat. Under normal circumstances, this rule does not authorize the use of "he or she" or "his or her".

3. NAMES AND ORGANIZATIONAL TITLES. WORDS THAT CONNOTE OR DENOTE GENDER DISTINCTIONS MAY BE USED IF THEY ARE PART OF A NAME OR ORGANIZATIONAL TITLE.

Examples.

Use

chairman

chairman

Do not use

chairperson

chair

Discussion of chapter. The rules contained in this chapter and their inclusion in this manual are mandated by a statute that requires, "to the extent practicable, the use of words that are neutral as to gender". Experience indicates that only very rarely is it "impracticable" to use gender neutral language if neither Rule 2 nor Rule 3 of this chapter applies.

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12/5/85 Ferris

CHAPTER 12. LANGUAGE TO AVOID.

1. DUAL MEANING OF PREFIX "BI". DO NOT USE WORDS WITH THE PREFIX "BI".

Example.

Use

Do not use

once every 2 weeks

biweekly

Discussion. "Biweekly" can mean twice a week or once every other week. The prefix "bi" is ambiguous. Therefore, to avoid confusion, words with that prefix should not be used.

2. LATINISMS. IF THERE IS AN ADEQUATE ENGLISH SUBSTITUTE, DO NOT USE A LATIN EXPRESSION.

Examples.

Use

Do not use

a year

per annum

absolute divorce

divorce a vinculo

Discussion. Some Latin expressions are terms of art (e.g., "pendente lite") and must be retained. However, there are English substitutes for many, if not most, Latin expressions that commonly appear in statutes.

3. LEGALISMS. USE SIMPLE ENGLISH INSTEAD OF UNNECESSARILY LEGALISTIC WORDS.

Examples.

Use

Do not use

the licensee

said licensee

that person

such person

that purpose

the aforesaid purpose

those acts

the beforementioned acts

under this section

under the provisions of this
section

Caveat. Lawyers often use "said", "such", and similar words to ensure that an antecedent reference is clear. The use of these words in drafting statutes is objectionable. However, avoiding the use of these words by substituting, for example, "the" for "said", may not be adequate. The legislative drafter also must ensure that the statute is structured so that antecedent references are made clear without the use of legalistic "crutches".

4. ARCHAIC LANGUAGE. USE MODERN TERMINOLOGY INSTEAD OF
ARCHAIC LANGUAGE.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|------------|-------------------|
| on which | whereupon |
| when | whenas |
| by which | whereby |

CROSS-REFERENCE.

As to other words to avoid, see Chapter 24. "Word Choices".

CHAPTER 13. MODIFIERS.

1. PLACEMENT IN GENERAL. GENERALLY, PLACE A MODIFIER AS CLOSE AS POSSIBLE TO THE TERM OR PHRASE IT MODIFIES.

Example.

Use

The petitioner shall file the petition in writing with the court.

Do not use

The petitioner shall file the petition with the court in writing.

2. CLEAR ASSOCIATION. BE SURE THAT A MODIFIER CLEARLY REFERS TO THE TERM THE MODIFIER IS INTENDED TO MODIFY.

Example.

Use

Only a licensed dentist may sign an authorization for dental laboratory work.

Do not use

A licensed dentist may sign only an authorization for dental laboratory work.

3. AVOID "SQUINTING" MODIFIERS. DO NOT PLACE A MODIFIER SO THAT IT IS NOT CLEAR WHETHER THE MODIFIER IS INTENDED TO MODIFY THE PRECEDING TERM OR THE FOLLOWING TERM.

Examples.

Use

The unit of State government that had State property at the time of its loss or damage and the Department shall jointly determine the value of the property.

Do not use

The Department and the unit of State government that had State property at the time of its loss or damage jointly shall determine the value of the property.

A person who believes that an

A person who believes that an

individual in a facility has
been abused shall promptly
report the alleged abuse to
...

individual in a facility has
been abused promptly shall
report the alleged abuse to
...

4. AMBIGUOUS MODIFIERS IN SERIES. DO NOT PLACE A MODIFIER
SO THAT IT IS UNCLEAR WHETHER IT MODIFIES A SINGLE ITEM IN A
SERIES OR EACH ITEM IN THE SERIES.

Examples (assuming that modification of only a single item in the
series is intended).

| <u>Use</u> | <u>Do not use</u> |
|---|---|
| a truck, van, or gasoline powered automobile | a gasoline powered automobile, truck, or van |
| a relative who resides in the State or a child | a child or relative who resides in the State |

Discussion. (1) Tabulation is a good device for demonstrating
the relationship between a modifier and the items in a series.
If the modifier is placed in the language that introduces a
tabulated list, the modifier clearly applies to each item in the
list. On the other hand, a modifier placed in a tabulated item
clearly does not appear to modify any item except the one in
which it appears.

(2) The following amusing example of a modifier that
violates this rule appeared in a bill introduced in the 1980
Session of the Maryland General Assembly (the bill also violates
some of the other rules in this manual):

"A state, county, or municipal police officer,
sheriff, or deputy sheriff employed by a private
employer as a private detective or security guard may
not wear or use any uniform, clothing, or equipment
other than an issued gun which is either owned by his
law enforcement agency or which indicates his
membership in the law enforcement agency while he is
in this private employ."

5. "STATE" IN NAMES OF AGENCIES AND OFFICIALS. DO NOT USE THE WORD "STATE" TO REFER TO A MARYLAND AGENCY OR OFFICIAL. IF A FEDERAL OFFICE OR AGENCY OTHERWISE MIGHT BE CONFUSED WITH A MARYLAND OFFICE OR AGENCY, ADD THE WORD "FEDERAL" TO THE OFFICIAL NAME OF THE OFFICE OR AGENCY.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|---------------------------------|---------------------------------------|
| Department of Agriculture | State Department of Agriculture |
| Department of Natural Resources | State Department of Natural Resources |
| Attorney General | State Attorney General |

Caveat. This rule was first adopted in 1983. Some of the earlier revised articles, therefore, were drafted following a different rule. See, e.g., § 7-208 of the Health - Environmental Article. In this regard, see also the caveat to Rule 8 in Chapter 4 of this manual.

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12/5/85 Ferris

CHAPTER 14. MONEY.

1. WHOLE DOLLAR AMOUNTS. EXPRESS A WHOLE DOLLAR AMOUNT BY USING A DOLLAR SIGN FOLLOWED BY THE AMOUNT IN NUMERALS WITHOUT A DECIMAL POINT.

Examples:

| <u>Use</u> | <u>Do not use</u> |
|------------------|-------------------------------|
| \$1,000 | \$1,000.00 |
| ... \$400 or ... | ... \$400. or ... |
| \$300 | Three Hundred Dollars (\$300) |
| \$200 | 200 dollars |
| \$1,500,000 | \$1.5 million |
| \$1,543,210 | \$1.54321 million |

2. AMOUNTS LESS THAN \$1. EXPRESS AN AMOUNT LESS THAN \$1 BY USING THE NUMBER OF CENTS IN NUMERALS FOLLOWED BY THE WORD "CENTS".

Examples.

| <u>Use</u> | <u>Do not use</u> |
|------------|-------------------|
| 25 cents | \$0.25 |
| 25 cents | 25¢ |

3. DOLLARS AND CENTS COMBINED. EXPRESS AN AMOUNT THAT IS MORE THAN \$1 AND THAT IS NOT A WHOLE DOLLAR AMOUNT BY USING A

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12/5/85 Ferris

DOLLAR SIGN FOLLOWED BY THE AMOUNT EXPRESSED AS A DECIMAL
FRACTION.

Example.

Use

\$1.25

Do not use

\$1 and 25 cents

CHAPTER 15. NUMBERS AND PERCENTAGES.

1. CARDINAL NUMBERS -- IN GENERAL. UNLESS IT IS AT THE BEGINNING OF A SENTENCE, EXPRESS A CARDINAL NUMBER IN ARABIC NUMERALS. IF A SENTENCE BEGINS WITH A CARDINAL NUMBER, EXPRESS THE NUMBER IN WORDS. HOWEVER, IF POSSIBLE, RECAST THE SENTENCE INSTEAD OF EXPRESSING THE NUMBER IN WORDS.

Example.

| <u>Use</u> | <u>Do not use</u> |
|---|--|
| (a) The Board consists of 12 members | (a) The Board consists of twelve members |
| (b) Of the 12 members: (1) 9 . . . ; (2) 1 . . . ; and (3) 2 | (b) Of the twelve members: (1) nine . . . ; (2) one . . . ; and (3) two |

Discussion. This rule is a departure from the rules normally followed in formal writing and from the rules applied in drafting Maryland revised articles before 1982. The reasons for adopting this rule were that the exceptions to the old rule that numbers under 10 were to be expressed in words had essentially swallowed the old rule and the new rule had been adopted by other institutions involved in legislative drafting, e.g., the National Conference of Commissioners on Uniform State Laws.

2. SAME -- LARGE NUMBERS. INCLUDE COMMAS IN ALL CARDINAL NUMBERS OVER 999.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|------------|-------------------|
| 1,000 | 1000 |
| 1,200 | 1200 |

| | |
|-----------|-------------|
| 75,000 | 75000 |
| 1,500,000 | 1.5 million |

3. SAME -- LARGE NUMBERS IN WORDS. IF IT IS NECESSARY TO EXPRESS A CARDINAL NUMBER IN WORDS, USE A FORMAL DESCRIPTION OF THE NUMBER.

Example.

| <u>Use</u> | <u>Do not use</u> |
|----------------------------|--------------------|
| Four thousand five hundred | Forty-five hundred |

4. ORDINAL NUMBERS. EXPRESS ORDINAL NUMBERS USING NUMERALS FOLLOWED BY "ND", "RD", "ST", OR "TH", AS APPROPRIATE.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|------------|-------------------|
| 1st | first |
| 9th | ninth |
| 10th | tenth |
| 22nd | twenty-second |
| 31st | thirty-first |
| 32nd | 32d |

5. DECIMAL FRACTIONS. IN DECIMAL FRACTIONS, INCLUDE A ZERO BEFORE THE DECIMAL POINT.

Example.

| <u>Use</u> | <u>Do not use</u> |
|------------|-------------------|
| 0.8 | .8 |

6. OTHER FRACTIONS. EXPRESS FRACTIONS OTHER THAN DECIMAL FRACTIONS IN WORDS INSTEAD OF NUMERALS. USE A HYPHEN TO EXPRESS THESE FRACTIONS.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|---------------|-------------------|
| one-third | 0.33333... |
| two-thirds | 2/3 |
| seven-eighths | seven eighths |

7. USE OF PERCENT SYMBOL; PERCENTAGES PREFERRED OVER FRACTIONS. EXPRESS PERCENTAGES USING NUMERALS FOLLOWED BY A PERCENT SYMBOL ("%"). HOWEVER, IF THE SUBJECT MATTER IS NOT NORMALLY EXPRESSED AS A PERCENTAGE, OR IF A PERCENTAGE CANNOT ACCURATELY EXPRESS A FRACTION (WITHOUT STILL USING A FRACTION), USE A FRACTION INSTEAD OF A PERCENTAGE.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|------------|-------------------|
| 50% | one-half |
| 50% | 1/2 |
| 50% | 50 percent |

one-third

33-1/3%

Discussion. One-third is not the same as 33%. For example, of 100 individuals, one-third is 34 individuals while 33% is 33 individuals.

8. FRACTION OF A PERCENT. WRITE A FRACTION OF A PERCENT AS A DECIMAL FRACTION WITH A ZERO BEFORE THE DECIMAL POINT.

Example.

Use

Do not use

0.75%

.75 percent

9. "MAJORITY" VERSUS "51%". DO NOT USE "51%" TO MEAN "MAJORITY". USE "MAJORITY" INSTEAD.

Example.

Use

Do not use

A majority of the members then serving on the Board is a quorum.

A quorum of the Board is 51 percent of the members then serving on the Board.

Discussion. A majority may be less than 51%. For example, 101 is a majority of 200, but is only 50.5%.

CHAPTER 16. ORGANIZATION OF SECTIONS AND
LARGER STATUTORY UNITS.

1. STANDARD ORGANIZATION. THE FOLLOWING LIST REPRESENTS
THE SEQUENCE IN WHICH PARTS OF A STATUTE SHOULD ORDINARILY
APPEAR:

- (1) DEFINITIONS;
- (2) RULES OF CONSTRUCTION;
- (3) LEGISLATIVE POLICY;
- (4) SCOPE OF STATUTE;
- (5) EXCEPTIONS TO STATUTE;
- (6) CREATION OF AGENCY;
- (7) ADMINISTRATIVE PROVISIONS;
- (8) RIGHTS, PRIVILEGES, AND DUTIES;
- (9) REMEDIAL PROVISIONS;
- (10) PROHIBITIONS;
- (11) PENALTIES;
- (12) SHORT TITLE; AND
- (13) SUNSET PROVISIONS AND THE LIKE.

Example of section properly organized (only section and subsection catchlines are shown).

- 11-203. Sanitary condition of railroad locomotives.
 (a) Scope of section.
 (b) Rules and regulations.
 (c) Public hearings.
 (d) Prohibition; penalty.

Discussion. See the most recent version of the Model Guide for Drafting Board, Commission, and Licensing Provisions, published by the Commission to Revise the Annotated Code of Maryland, for a detailed example of this standard organization.

2. SECTION COMPOSITION. A SECTION SHOULD ADDRESS A SINGLE PRIMARY SUBJECT.

Discussion. As a general rule, avoid creating overly long sections. Thus, the degree of detail that a statute contains on a given subject will generally determine whether that subject is a single primary subject to which an entire section should be devoted.

3. SUBDIVISION OF SECTIONS. SUBDIVIDE A SECTION ACCORDING TO THE FOLLOWING BREAKDOWN. HOWEVER, AVOID ORGANIZING A SECTION SO AS TO SUBDIVIDE IT BEYOND THE LEVEL FOR WHICH ROMAN NUMERALS ARE USED.

Examples.

"§ 12-205(a)(1)(i)1.A." indicates:

section 12-205

 subsection (a)

 paragraph or item (1)

 subparagraph or item (i)

 sub-subparagraph or item 1.

sub-sub-subparagraph or item A.

"§ 12-205(2)" indicates:

section 12-205

item (2)

Discussion. An "item" is a subdivision that is not a grammatically complete sentence (or sentences), while a "subsection", "paragraph", "subparagraph", etc., consists of 1 or more complete sentences (including any subsequent subdivision).

Additional Rule. If more than 26 subsections are required, subsection "(z)" is followed, in order, by subsections "(aa)", "(bb)", "(cc)", etc. However, this number of subsections should be avoided.

4. SECTION DESIGNATION. DESIGNATE A SECTION IN A REVISED ARTICLE BY A SECTION SYMBOL ("§") FOLLOWED, IN ORDER, BY THE NUMBER OF THE TITLE, A HYPHEN, AND A 3- OR 4- DIGIT INDEX NUMBER. THE 2 RIGHTMOST DIGITS OF THE INDEX NUMBER INDICATE THE SEQUENCE OF THE SECTION IN THE SUBTITLE AND THE REMAINING DIGITS OF THE INDEX NUMBER INDICATE THE NUMBER OF THE SUBTITLE.

Example.

"§ 4-203 of the Health Occupations Article" indicates:

Title 4

Subtitle 2

Third section in Subtitle 2

Health Occupations Article

Caveat. This system of designation will not work if a subtitle has more than 99 sections. Therefore, avoid drafting a subtitle that contains more than 99 sections.

5. ADDING TITLE TO ENACTED REVISED ARTICLE. TO INSERT A TITLE BETWEEN CONSECUTIVELY NUMBERED TITLES IN AN ENACTED REVISED ARTICLE, NUMBER THE NEW TITLE WITH A DECIMAL FRACTION STARTING WITH ".5". NUMBER ADDITIONAL NEW TITLES IN THE SAME PLACE ".2" MORE OR LESS THAN ".5" DEPENDING ON WHETHER THE ADDITIONAL NEW TITLE IS INTENDED TO COME BEFORE OR AFTER THE FIRST NEW TITLE.

Examples. Number a new title to be inserted between Title 6 and Title 7 as "Title 6.5". Number a new title to be inserted between Title 6 and Title 6.5 as "Title 6.3". Number a new title to be inserted between Title 6.5 and Title 7 as "Title 6.7".

Discussion. See the discussion following Rule 9 of this chapter.

6. ADDING SUBTITLE TO ENACTED REVISED ARTICLE. TO ADD A SUBTITLE BETWEEN CONSECUTIVELY NUMBERED SUBTITLES IN A REVISED ARTICLE THAT HAS BEEN ENACTED, NUMBER THE NEW SUBTITLE WITH A NUMERAL AND A CAPITAL LETTER.

Example. In Title 6 of the Health Occupations Article, number a new subtitle to be inserted between Subtitle 3 and Subtitle 4 as "Subtitle 3A". The first section in the new subtitle will be "§ 6-3A-01 of the Health Occupations Article".

Discussion. See the discussion following Rule 9 of this chapter.

7. ADDING NEW SECTION TO ENACTED REVISED ARTICLE. TO ADD A NEW SECTION BETWEEN CONSECUTIVELY NUMBERED SECTIONS IN A REVISED ARTICLE THAT HAS BEEN ENACTED, NUMBER THE NEW SECTION WITH THE NUMBER OF THE SECTION IT FOLLOWS, INCREASED BY THE DECIMAL FRACTION 0.1.

Examples. Number a new section to be inserted between § 1-203 and § 1-204 as "§ 1-203.1". Number a new section to be inserted between § 1-203.1 and § 1-204 as "§ 1-203.2".

8. ADDING NEW SUBSECTION, PARAGRAPH, ITEM, SUBPARAGRAPH, OR SUBITEM TO ENACTED REVISED ARTICLE. AS A GENERAL RULE, TO ADD A NEW SUBSECTION, PARAGRAPH, ITEM, SUBPARAGRAPH, OR SUBITEM BETWEEN EXISTING STATUTORY UNITS OF THE SAME LEVEL OF SUBDIVISION IN A SECTION OF A REVISED ARTICLE THAT HAS BEEN ENACTED, REDESIGNATE EACH UNIT OF THAT LEVEL THAT FOLLOWS THE NEW UNIT, THUS CREATING AN APPROPRIATE VACANT DESIGNATION TO ASSIGN TO THE NEW UNIT.

Example. In a definition section that contains 6 alphabetically designated subsections, to add a new subsection defining a term that alphabetically fits between subsections (d) and (e), designate the new subsection "(e)" and redesignate old subsections (e) and (f) to be (f) and (g), respectively.

Caveat. Check for cross-references whenever a statutory unit is redesignated.

9. SPECIAL DESIGNATIONS WHEN ADDING NEW SUBSECTION TO ENACTED REVISED ARTICLE. IF IT IS IMPRACTICABLE TO REDESIGNATE THE OLD SUBSECTIONS AND IT IS NECESSARY TO INSERT A NEW SUBSECTION BETWEEN SUBSECTIONS OF A SECTION IN A REVISED ARTICLE THAT HAS BEEN ENACTED, DESIGNATE THE NEW SUBSECTION AS FOLLOWS:

(1) INSERT A NEW SUBSECTION BETWEEN 2 ALPHABETICALLY DESIGNATED SUBSECTIONS BY DESIGNATING THE NEW SUBSECTION WITH THE LETTER OF THE EXISTING SUBSECTION IT FOLLOWS, A HYPHEN, AND THE NUMERAL "1".

Example. A new subsection inserted between subsections (b) and (c) would be designated subsection "(b-1)".

(2) INSERT A NEW SUBSECTION BETWEEN AN
ALPHANUMERICALLY DESIGNATED SUBSECTION AND AN ALPHABETICALLY
DESIGNATED SUBSECTION BY DESIGNATING THE NEW SUBSECTION IN THE
SAME WAY AS THE SUBSECTION IT FOLLOWS, EXCEPT THAT THE NUMBER
AFTER THE HYPHEN IS INCREASED BY 1.

Example. A new subsection inserted between subsections (b-1) and (c) would be designated subsection "(b-2)".

(3) INSERT A NEW SUBSECTION BETWEEN 2
ALPHANUMERICALLY DESIGNATED SUBSECTIONS BY DESIGNATING THE NEW
SUBSECTION THE SAME WAY AS THE SUBSECTION IT FOLLOWS, EXCEPT THAT
THE NUMBER AFTER THE HYPHEN IS INCREASED BY 0.1.

Example. A new subsection inserted between subsections (b-1) and (b-2) would be designated subsection "(b-1.1)".

Discussion. An examination of Rules 5, 6, and 7 of this chapter will reveal that many possible insertion situations are not covered. Insertions that create unusual numbering schemes should be avoided wherever possible. Therefore, if a situation does not fit any of the rules in this chapter, and, to a lesser degree, even if the situation fits 1 of these rules, attempt to avoid the insertion by locating the new provision elsewhere.

CHAPTER 17. POWERS, PROHIBITIONS, REQUIREMENTS, AND
RIGHTS; USE OF "MAY", "MUST", AND "SHALL".

1. RIGHT, PRIVILEGE, OR POWER. USE THE WORD "MAY" TO
CONFER A RIGHT, PRIVILEGE, OR POWER.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|------------|-------------------------|
| may | may, in his discretion, |
| may | is authorized to |
| may | is empowered to |
| may | it is lawful to |
| may | shall have the power to |

Additional Rule. Use "is entitled to" for compensation provisions (e.g., "is entitled to compensation" or "is entitled to reimbursement"). Otherwise, use "may" instead of "is entitled to".

2. PROHIBITION. USE "MAY NOT" TO STATE A PROHIBITION.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|------------|-------------------|
| may not | shall not |
| may not | It is unlawful to |
| may not | It is illegal to |

Discussion. Article 1, § 26 of the Code provides that "may not" has "a mandatory negative effect" and establishes "a prohibition".

3. MANDATORY OBLIGATION TO ACT. USE "SHALL" TO STATE A REQUIREMENT OR DUTY.

Example.

Use

The Secretary shall inspect the premises.

Do not use

The Secretary has the duty to inspect the premises.

4. "MUST" IN CONDITIONS PRECEDENT. USE "MUST" TO ESTABLISH A MANDATORY REQUIREMENT THAT IS EXPRESSED USING AN INACTIVE VERB. DO NOT USE "MUST" TO STATE A REQUIREMENT OR DUTY.

Example.

Use

Each member must be a resident of the State.

Do not use

Each member shall be a resident of the State.

Discussion. The use of "must" should be limited to situations in which "shall" might create the impression that a legal fiction is intended. For example, a provision stating that each member of a body "shall be expert" in a certain field might be interpreted to mean that each member is considered to be an expert in that field by virtue of membership.

5. "SHALL" AS FORMING FUTURE TENSE. DO NOT USE "SHALL" TO FORM THE FUTURE TENSE. USE "WILL" INSTEAD.

CHAPTER 18. PRONOUNS.

1. CLEAR ANTECEDENTS. DO NOT USE A PRONOUN IF ITS ANTECEDENT IS NOT ABSOLUTELY CLEAR.

Example.

Use

The Commission shall review the application for renewal of the permit before the permit expires.

Do not use

The Commission shall review the application for renewal of the permit before it expires.

Discussion. Statutory drafting requires greater precision as to pronouns than is required even in other formal writing. Therefore, if there are 2 possible antecedents for a pronoun, repeat the antecedent instead of using the pronoun, even though on analysis it becomes clear which possible antecedent is correct.

2. PRONOUN-ANTECEDENT AGREEMENT. A PRONOUN AND ITS ANTECEDENT MUST AGREE AS TO NUMBER. BOTH MUST BE SINGULAR OR BOTH MUST BE PLURAL.

Example.

Use

... may not impose any requirements other than those ...

Do not use

... may not impose any requirement other than those ...

Additional Rule. If 2 or more antecedents are joined by the conjunction "and", the correct pronoun is plural, even if none of the antecedents is plural.

3. IMPROPERLY VAGUE PRONOUNS. AVOID USING "THAT", "THESE", "THIS", OR "WHICH" TO REFER TO A GENERAL IDEA IN A PRECEDING

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12/5/85 Ferris

CLAUSE OR SENTENCE.

Example.

Use

The Governor shall appoint the
Director within 6 months after
...

Do not use

The Governor shall appoint
the Director, which shall be
done within 6 months after
...

CHAPTER 19. PUNCTUATION.

1. DEPENDENCE ON PUNCTUATION. AVOID MAKING THE MEANING OF A SENTENCE DEPEND ON PUNCTUATION.

Example.

| <u>Use</u> | <u>Do not use</u> |
|---|--|
| Except for a producer or retailer, any licensee who sells ... | Any licensee, except for a producer or retailer, who sells ... |

Discussion. The defect in the disapproved version above is that if the punctuation is deleted it is unclear whether the statute speaks to any "retailer" and to any "licensee except for a producer" or whether the exception embraces both producers and retailers.

2. SERIES. IN A COORDINATE SERIES OF 3 OR MORE, INSERT A COMMA AFTER EACH WORD, CLAUSE, OR PHRASE IN THE SERIES EXCEPT THE LAST WORD, CLAUSE, OR PHRASE.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|---|--|
| ... make, sell, or dispose ... | ... make, sell or dispose ... |
| ... may deny a license to any applicant, reprimand any licensee, place any licensee on probation, or suspend or revoke any license if ... | ... may deny a license to any applicant, reprimand any licensee, place any licensee on probation or suspend or revoke any license if ... |

3. PAIRED COMMAS. SET OFF A PARENTHETICAL EXPRESSION, NONRESTRICTIVE APPOSITIVE, EXCEPTION, OR SIMILAR EXPRESSION WITH APPROPRIATE PUNCTUATION. UNLESS THE EXPRESSION IS AT THE

BEGINNING OR END OF A SENTENCE OR AT THE END OF LANGUAGE
INTRODUCTORY TO A TABULATION, THE EXPRESSION NORMALLY SHOULD BE
SET OFF WITH PAIRED COMMAS.

Example.

Use

The Department shall submit to
the Governor and, subject to
Article 40, § 51 of the Code,
to the General Assembly a
report that ...

Do not use

The Department shall submit
to the Governor and subject
to Article 40, § 51 of the
Code, to the General Assembly
a report that ...

4. DO NOT SET OFF RESTRICTIVE CLAUSES. DO NOT SET OFF A
RESTRICTIVE CLAUSE WITH COMMAS OR OTHER PUNCTUATION.

Example.

Use

The person who files the
complaint shall sign the
complaint.

Do not use

The person, who files the
complaint, shall sign the
complaint.

5. SENTENCES CONTAINING 2 INDEPENDENT CLAUSES. IF A
SENTENCE CONSISTS OF 2 INDEPENDENT CLAUSES, INSERT A COMMA BEFORE
THE CONJUNCTION THAT JOINS THE INDEPENDENT CLAUSES.

Example.

The Commission shall report annually to the Governor, and
the General Assembly shall ...

Discussion. A sentence that contains 2 independent clauses can
be identified by the fact that it contains 2 verbs each of which
has a different subject.

Exception. If a sentence begins with a dependent clause that
applies to both independent clauses that follow, no comma should

separate the independent clauses because that comma would make the introductory dependent clause seem to apply only to the first independent clause. For example: "If the Governor finds that an emergency exists, the Secretary shall issue an appropriate order and the Department shall ...". Remember that tabulation can often be used to avoid any question as to whether an introductory dependent clause applies to several independent clauses or to only a single independent clause.

6. COMMAS WITH 2 SEPARATE PREDICATES. DO NOT SEPARATE 2 PREDICATES JOINED BY A COORDINATING CONJUNCTION WITH A COMMA.

Example.

Use

The Committee shall review the information and prepare a report.

Do not use

The Committee shall review the information, and prepare a report.

7. PUNCTUATION OF MATERIAL IN QUOTATION MARKS. UNLESS THE PUNCTUATION IS PART OF QUOTED MATERIAL, PLACE ALL PUNCTUATION, INCLUDING COMMAS AND PERIODS, AFTER THE ENDING QUOTATION MARK.

Example.

Use

This subtitle may be cited as the "Maryland Uniform Child Custody Jurisdiction Act".

Do not use

This subtitle may be cited as the "Maryland Uniform Child Custody Jurisdiction Act."

Discussion. This rule is a stylistic convention that promotes precision. This rule must be followed even though, in some respects, it is contrary to the usual rule.

8. PARENTHESES. EXCEPT IN EXTRAORDINARY CIRCUMSTANCES, DO NOT USE PARENTHESES IN THE TEXT OF A STATUTE. IF COMMAS WILL SERVE AS WELL, USE COMMAS INSTEAD OF PARENTHESES.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|--|---|
| "Physician" means, except in Title 14 of this article, an individual who ... | "Physician" means (except in Title 14 of this article) an individual who ... |
| Subject to the notice and hearing provisions of this section, the Department may ... | The Department (subject to the notice and hearing provisions of this section) may ... |

Discussion. See R. Dickerson, The Fundamentals of Legal Drafting § 8.9 (1965), for a discussion of the use of parentheses.

9. APOSTROPHE. IF A NOUN OR INDEFINITE PRONOUN DESCRIBES SOMETHING CAPABLE OF OWNERSHIP, AN APOSTROPHE MAY BE USED TO FORM THE POSSESSIVE CASE OF THE NOUN OR INDEFINITE PRONOUN. DO NOT USE THE POSSESSIVE CASE OF A NOUN OR PRONOUN THAT REFERS TO SOMETHING THAT IS NOT CAPABLE OF OWNERSHIP. DO NOT USE CONTRACTIONS.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|--------------------|-------------------|
| of the application | the application's |
| is not | isn't |

Discussion. Generally, the more formal "of the" is preferable even with a noun or indefinite pronoun that describes something capable of ownership. Thus, "of the individual" is better than "the individual's" in most circumstances. However, in some circumstances, use of the possessive case can avoid extremely awkward phraseology and is permitted by this rule. For example, "the individual shall include the individual's telephone number" may be preferable to "the individual shall include the telephone number of the individual", especially in a long sentence.

CHAPTER 20. RELATIVE PRONOUNS.

1. "WHO"; "WHOSE". DO NOT USE "WHO" OR "WHOSE" TO REFER TO ANYTHING OTHER THAN AN INDIVIDUAL OR PERSONIFIED ENTITY.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|--|---|
| The individual who files the report shall... | The individual that files the report shall... |
| A person who violates... | A person that violates... |
| A dog that bites... | A dog who bites... |

2. "THAT"; "WHICH". USE "THAT" TO INTRODUCE A RESTRICTIVE MODIFIER AND "WHICH" TO INTRODUCE A NONRESTRICTIVE MODIFIER.

Example.

| <u>Use</u> | <u>Do not use</u> |
|---|--|
| "Commercial bank" means an institution that is incorporated under ... | "Commercial bank" means an institution which is incorporated under ... |

Discussion. A restrictive modifier is a modifier that is essential to identifying the item modified. For example: "'Commercial bank' means an institution that is incorporated under the laws of the State as a state bank or trust company."

A nonrestrictive modifier is a modifier that is not essential to identifying the item modified. For example: "Throughout this section, the term 'commercial bank', which is defined in § 1-101 of this article, is substituted for the independent references to 'state bank' and 'trust company'."

STYLE MANUAL - 1985 Edition
12/5/85 Ferris

It is rare that a nonrestrictive modifier is used in a properly drafted statute (as opposed to a revisor's note). Therefore, if in doubt, use "that" in a statute.

CHAPTER 21. SENTENCE LENGTH AND STRUCTURE.

1. SIMPLE SENTENCES. USE SHORT, SIMPLE SENTENCES. AVOID USING NUMEROUS DEPENDENT CLAUSES, PARALLEL CLAUSES, OR OTHER COMPLEX SENTENCE STRUCTURES.

Example.

Use

(a) Each credit union shall have at least 5 directors.
(b) Each director shall be a member of the credit union.
(c) A director holds office for the term that the bylaws provide.

Do not use

(a) Each credit union shall have at least 5 directors, each of whom shall be a member of the credit union.
(b) A director holds office for the term that the bylaws provide.

2. USUAL STRUCTURE. GENERALLY, THE PRINCIPAL PARTS OF A SENTENCE SHOULD APPEAR IN THE FOLLOWING ORDER:

- (1) SUBJECT;
- (2) "WHEN" ADVERB OR ADVERBIAL PHRASE;
- (3) VERB;
- (4) OBJECT OF VERB;
- (5) "WHERE" ADVERB OR ADVERBIAL PHRASE; AND
- (6) "HOW" ADVERB OR ADVERBIAL PHRASE.

Examples of usual sentence structure.

The Secretary periodically shall inspect the equipment of each permit holder.

The Commission shall send the report directly to the Secretary.

Discussion. "When" adverbs describe timing (e.g., "monthly"). "Where" adverbs describe location (e.g., "inside"). "How" adverbs describe the manner in which something happens (e.g., "carefully"). The order suggested in this rule is derived from and more fully explained in E. Schuster, Grammar, Usage, and Style 136-40 (1965).

CROSS-REFERENCE.

Position of exceptions, conditions, and limitations -- See Chapter 10. "Exceptions, Conditions, and Limitations".

Position of subject and verb -- see Chapter 25. "Word Order".

Position of verb and object -- see Chapter 25. "Word Order".

CHAPTER 22. TABULATION.

Introductory Comment to Chapter. Tabulation is similar in appearance to outlining and may be used to list a series of items or concepts each of which relates to common introductory language. Tabulation can enhance clarity and prevent ambiguity. However, before tabulating legislation, balance the need for enhanced clarity against the extent to which the tabulation might impair readability or distort emphasis.

The following is an example of an appropriate and useful tabulation of a statute.

"The standards set under this subtitle for child resistant packaging of a dangerous household substance may not require specific:

- (1) packaging designs;
- (2) product content;
- (3) package quantity; or
- (4) except as provided in § 5-310 of this subtitle,

labeling."

The following is an example of inappropriate overtabulation of a statute.

"'Banking institution' means an institution that is incorporated under the laws of the State as a:

- (1) state bank;
- (2) trust company; or
- (3) savings bank."

The rules that appear in this chapter are intended to be guidelines for tabulation in those situations in which tabulation is appropriate. Generally, it is hard to overtabulate. However, always remember that it is possible to overtabulate.

1. PARALLELISM. EACH ITEM IN A TABULATED LIST MUST BE OF THE SAME GRAMMATICAL CONSTRUCTION AND RELATE TO A COMMON THEME.

Examples.

Use

"Abuse" means:

- (1) an act that causes serious bodily harm;
- (2) an act that places another in fear of imminent serious bodily harm; or
- (3) sexual abuse of a child, as defined in...

(a) A licensee may:

- (1) manufacture drugs or medicines; and
- (2) distribute drugs or medicines.

(b) A licensee may take any license renewal examination that is required.

Do not use

"Abuse" means:

- (1) an act that causes serious bodily harm;
- (2) an act that places another in fear of imminent serious bodily harm; or
- (3) to sexually abuse a child, as defined in...

A licensee may:

- (1) manufacture drugs or medicines;
- (2) distribute drugs or medicines; and
- (3) take any license renewal examination that is required.

2. CONTEXTUAL COORDINATION. UNLESS A TABULATED LIST IS A "PURE" LIST, EACH ITEM IN THE LIST MUST EXPRESS A COMPLETE THOUGHT WHEN COMBINED WITH THE LANGUAGE THAT INTRODUCES THE LIST.

Example.

Use

A person is exempt if the person:

- (1) signs the application under oath;
- (2) pays the required fee; and
- (3) does anything else the Secretary reasonably requires.

Do not use

A person is exempt if the person:

- (1) signs the application under oath;
- (2) pays the required fee; and
- (3) anything else the Secretary reasonably requires.

Discussion. As to a "pure" list, see the discussion following Rule 6 of this chapter.

3. "SPLITTING" PREPOSITIONS AND OBJECTS. DO NOT END THE INTRODUCTORY LANGUAGE TO A TABULATION WITH A PREPOSITION UNLESS EACH ITEM IN THE TABULATION BEGINS WITH THE OBJECT OF THE PREPOSITION (IGNORING ARTICLES AND ADJECTIVES).

Examples.

| <u>Use</u> | <u>Do not use</u> |
|---|---|
| The Attorney General is the legal adviser for: (1) the Board of ...; (2) the Board of ...; and (3) the Sheriff of | The Attorney General is the legal adviser: (1) for the Board ...; (2) for the Board of ...; and (3) for the Sheriff of ... |
| "Practice dentistry" means to: (1) be a manager of ...; (2) perform or attempt to ...; (3) diagnose ... | "Practice dentistry" means: (1) to be a manager of ...; (2) to perform or attempt to ...; (3) to diagnose ... |
| While it is effective, a permit authorizes the permit holder: (1) to collect ...; (2) to handle ...; and (3) except in Baltimore City, to distribute ... | While it is effective, a permit authorizes the permit holder to: (1) collect ...; (2) handle ...; and (3) except in Baltimore City, distribute ... |

Discussion. As the examples above demonstrate, for purposes of this rule, the word "to" in an infinitive is treated as a preposition and the plain form of the verb is treated as the object of that preposition.

4. CONTINUING SENTENCE OR PARAGRAPH. DO NOT CONTINUE A SENTENCE OR PARAGRAPH AT THE END OF A TABULATION.

Example.

Use

Except as otherwise provided in this section, in every sale, warranties are implied that, at the time of the delivery of the deed to a completed improvement or at the time of completion of an improvement not completed when the deed is delivered, the improvement is:

- (1) free from faulty materials;
- (2) constructed according to sound engineering standards;
- (3) constructed in a workmanlike manner; and
- (4) fit for habitation.

Do not use

Except as otherwise provided in this section, in every sale, warranties are implied that the improvement is:

- (1) free from faulty materials;
- (2) constructed according to sound engineering standards;
- (3) constructed in a workmanlike manner; and
- (4) fit for habitation at the time of the delivery of the deed to a completed improvement, or at the time of the completion of an improvement not completed when the deed is delivered.

Discussion. For a dramatic example of why a sentence should not be continued at the end of a tabulation, see Krol v. York Terrace Building, Inc., 35 Md. App. 321 (1977). In Krol, a circuit court interpreted a statute essentially identical to the disapproved version above in a manner diametrically different than did the Court of Special Appeals. The difference was based on the position of the modifying phrase that is moved to the introductory language in the approved version.

5. FORM AND PUNCTUATION. END THE INTRODUCTORY LANGUAGE TO A TABULATION WITH A COLON. END THE PENULTIMATE ITEM WITH A SEMICOLON FOLLOWED BY "AND" OR "OR", THE LAST ITEM WITH A PERIOD, AND THE REMAINING ITEMS WITH SEMICOLONS.

Example.

A foreign association or a savings and loan association that maintains its principal office outside the State may not:

- (1) have an office for business in the State except for an office that was open for business in the State before June 1, 1955;

- (2) have an electronic terminal in the State; or
- (3) be admitted to do business in the State.

Discussion. See the discussion following Rule 6 of this chapter.

6. CAPITALIZATION. UNLESS IT MUST BE CAPITALIZED UNDER SOME OTHER RULE, THE FIRST WORD OF EACH ENUMERATED ITEM FOLLOWING THE INTRODUCTORY LANGUAGE TO A TABULATION SHOULD BE IN LOWER CASE.

Discussion. Some of the revised articles were drafted following rules that vary from Rules 5 and 6 of this chapter. See, e.g., § 5-106 of the Health-Environmental Article. However, Rules 5 and 6 of this chapter now apply to any tabulation.

A "pure" list is a tabulation in which the enumerated items are simply a listing and the introductory language is a complete sentence. See, e.g., § 5-106 of the Health - Environmental Article. Professor Dickerson suggests that the punctuation and capitalization rules for a "pure" list should be different than those for other tabulations, and some of the revised articles of the Code were drafted following his suggestions. However, except as provided in Rule 2 of this chapter, there is no longer any variation between the rules for a "pure" list and the rules for other tabulations.

7. SUBTABULATION -- SEQUENCE. IF ONLY 1 ITEM IN A LIST IS SUBTABULATED, PLACE THE SUBTABULATED ITEM LAST IN THE TABULATION UNLESS TO DO SO IS AWKWARD OR OTHERWISE NOT APPROPRIATE.

Example.

Use

The Board shall reinstate the license of a physician who has failed to renew a license for any reason if the physician:
(1) meets the renewal requirements of § 14-308 of this subtitle; and

Do not use

The Board shall reinstate the license of a physician who has failed to renew a license for any reason if the physician:
(1) submits to the Board:
(i) a reinstatement fee of

(2) submits to the Board:
(i) a reinstatement fee of \$10; and
(ii) evidence satisfactory to the Board of compliance with the qualifications and requirements set under this subtitle for license reinstatement.

\$10; and
(ii) evidence satisfactory to the Board of compliance with the qualifications and requirements set under this subtitle for license reinstatement; and
(2) meets the renewal requirements of § 14-308 of this subtitle.

8. SAME -- MAXIMUM EXTENT. SUBTABULATION SHOULD NOT BE CARRIED BEYOND THE THIRD LEVEL OF DIVISION.

Example of unacceptable overtabulation.

(a) ...:
 (1) ...; and
 (2) ... is:
 (i) ...; or
 (ii) equipment that is used to:
 1. cool the building;
 ...
 4. heat water used in the building; or
 5. supply power to the building using as
the power source:
 A. coal;
 B. electricity;
 C. natural gas; or
 D. oil.

Example of acceptable alternative.

(a) ...:
 (1) ...; and
 (2) ... is:
 (i) ...; or
 (ii) equipment that is used to:
 1. cool the building;
 ...
 4. heat water used in the building; or
 5. supply power to the building using
coal, electricity, natural gas, or oil as the power source.

CHAPTER 23. VERBS.

1. PRESENT TENSE; PRESENT PERFECT TENSE. UNLESS ANOTHER TENSE IS NEEDED TO EXPRESS A TIME RELATIONSHIP, USE THE PRESENT TENSE. HOWEVER, THE PRESENT PERFECT TENSE MAY BE USED TO EXPRESS A CONDITION PRECEDENT.

Examples.

Use

A person who violates any provision of this subtitle is guilty of...

Unless the licensee has been practicing X for at least 7 years, the licensee shall...

Do not use

A person who violated any provision of this subtitle shall be guilty of...

Unless the licensee is practicing X for at least 7 years, the licensee shall...

2. ACTIVE VOICE; PASSIVE VOICE. IN GENERAL, USE THE ACTIVE VOICE. HOWEVER, THE PASSIVE VOICE MAY BE USED FOR EMPHASIS OR IF EXPRESS REFERENCE TO THE ACTING ENTITY IS AWKWARD, IS IMPOSSIBLE, OR VIOLATES ANOTHER RULE.

Example.

Use

The Board shall appoint the director.

Do not use

The director shall be appointed by the Board.

3. INDICATIVE MOOD. IN GENERAL, USE THE INDICATIVE MOOD. NEVER USE THE SUBJUNCTIVE MOOD. USE "SHALL" IN IMPERATIVE PROVISIONS ONLY.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|---|---|
| The Board may waive the examination requirement of this subtitle for an applicant who is licensed to practice optometry in any other state. | If an applicant be licensed to practice optometry in any other state, the Board may waive the examination requirement of this subtitle. |
| The State keeps title to each book received under this section. | Each book received under this section shall remain the property of the State. |

4. "SPLITTING" VERBS. IF A VERB CONSISTS OF 2 OR MORE WORDS, AVOID PLACING OTHER WORDS BETWEEN ANY 2 OF THOSE WORDS. HOWEVER, IF CLARITY OR READABILITY IS ENHANCED BY DOING SO, A SINGLE WORD MAY BE PLACED BETWEEN 2 WORDS THAT FORM A VERB. DO NOT PLACE MORE THAN A SINGLE WORD BETWEEN ANY 2 WORDS THAT FORM A VERB.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|-------------------------------|-------------------------------|
| to investigate immediately | to immediately investigate |
| immediately shall investigate | shall immediately investigate |
| may not perform | not may perform |

Discussion. As to splitting infinitives in a tabulation, see Rule 3 in Chapter 22 of this manual.

CHAPTER 24. WORD CHOICE.

1. "ADOPT". USE "ADOPT" TO REFER TO THE ACT OF ISSUING AND PUBLISHING RULES OR REGULATIONS.

Example.

| <u>Use</u> | <u>Do not use</u> |
|------------------------------|-----------------------------------|
| shall adopt regulations that | shall promulgate regulations that |

2. "COUNTY" AND "BALTIMORE CITY". THE WORD "COUNTY" GENERALLY INCLUDES "BALTIMORE CITY".

Example.

| <u>Use</u> | <u>Do not use</u> |
|---------------------------------|---|
| State's Attorney for the county | State's Attorney for the county or Baltimore City, as the case may be |

Discussion. According to Article 1, § 14 of the Code, "county" includes "Baltimore City" unless the construction would be unreasonable. However, in order to avoid an unintended construction of "unreasonable", revised articles of the Code expressly define "county" to include Baltimore City.

3. "COMPLETELY"; "WHOLLY"; "PARTLY"; "PARTIALLY". "COMPLETELY" AND "PARTIALLY" ADDRESS DEGREE. "WHOLLY" AND "PARTLY" ARE MORE FINITE TERMS. THEREFORE, "WHOLLY" AND "PARTLY" GENERALLY ARE MORE APPROPRIATE.

Example.

| <u>Use</u> | <u>Do not use</u> |
|--|---|
| The State shall contribute only after the work is (wholly, partly) done. | The State shall contribute only after the work is (completely, partially) done. |

4. "DATA" VERSUS "INFORMATION". USE "INFORMATION" INSTEAD OF "DATA".

5. "DEEM" AND "CONSIDER". USE THE PHRASE "IS DEEMED" TO EXPRESS A LEGAL FICTION. DO NOT USE "DEEM" AS A SUBSTITUTE FOR "CONSIDER".

Example of a legal fiction.

A person who is licensed to sell firearms is deemed to have consented to

Example of improper use of "deem".

The report may contain any other information the Board deems necessary.

Correct alternative to improper example:

The report may contain any other information the Board considers necessary.

Discussion. The phrase "is deemed" should be used very sparingly. Many provisions that appear to be legal fictions are not.

6. MAIL -- "REGISTERED" AND "CERTIFIED". UNLESS "REGISTERED MAIL" IS INTENDED SPECIFICALLY, USE "CERTIFIED MAIL" TO MEAN EITHER CERTIFIED OR REGISTERED MAIL.

Example.

| <u>Use</u> | <u>Do not use</u> |
|------------------------------------|--|
| serve the notice by certified mail | serve the notice by registered or certified mail |

Discussion. Article 1, § 20 of the Code provides that "registered mail" includes "certified mail" and that "certified mail" includes "registered mail". However, "certified mail" is the term preferred for consistency.

7. "MUNICIPALITY" AND "MUNICIPAL CORPORATION". ABSENT A SPECIFIC DEFINITION, USE "MUNICIPAL CORPORATION" INSTEAD OF "MUNICIPALITY" OR "MUNICIPALITY, TOWN, OR SUBDIVISION". DO NOT USE "MUNICIPAL CORPORATION" TO MEAN "COUNTY".

8. "OATH" AND "AFFIRMATION". USE THE WORD "OATH" INSTEAD OF A PHRASE LIKE "OATH OR AFFIRMATION".

Example.

| <u>Use</u> | <u>Do not use</u> |
|--------------------|------------------------------|
| shall take an oath | shall take an oath or affirm |

Discussion. Article 1, § 9 of the Code provides that, if an oath is required by the Code, an affirmation made by a person conscientiously scrupulous of taking an oath is sufficient. Therefore, in the phrase "oath or affirmation," the words "or affirmation" are unnecessary.

9. "PASS" AN ORDER. USE THE WORD "PASS" TO DESCRIBE THE ACTION OF A COURT OR AN AGENCY IN MAKING AN ORDER EFFECTIVE.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|---------------|-------------------|
| pass an order | issue an order |
| pass an order | make an order |
| pass an order | grant an order |

10. "PERSON" AND "INDIVIDUAL". USE "PERSON" TO INCLUDE HUMAN BEINGS AND CORPORATIONS. IF THE REFERENCE IS INTENDED TO APPLY ONLY TO HUMAN BEINGS, USE "INDIVIDUAL". DO NOT USE THE TERM "NATURAL PERSON" TO MEAN AN INDIVIDUAL.

Example.

| <u>Use</u> | <u>Do not use</u> |
|----------------------------------|-----------------------------|
| An individual who gives blood... | A person who gives blood... |

Discussion. "Person" includes "corporation". See Article 1, § 15 of the Code.

11. "PERSON" AND "THE STATE". USE "PERSON" TO INCLUDE "THE STATE" ONLY IF "PERSON" IS DEFINED TO INCLUDE "THE STATE".

Discussion. In Mayor and City Council of Baltimore v. Maryland, 281 Md. 217, 223 (1977), the Court of Appeals held that "the State is not deemed to be bound by an enactment of the General Assembly unless the enactment specifically names the State or manifests a clear and indisputable intention that the State is to be bound". Therefore, if it is intended that "person" include "the State", define "person" to include "the State". However, bear in mind that this may raise questions about sovereign immunity.

12. "POLITICAL SUBDIVISION" AND "COUNTY". USE "COUNTY", RATHER THAN "POLITICAL SUBDIVISION" TO REFER TO COUNTY-LEVEL GOVERNMENT IN MARYLAND.

Example.

Use

... the appropriate court in
the county in which ...

Do not use

... the appropriate court in
the political subdivision in
which ...

13. "RESIDENCE"; "DOMICILE"; "ADDRESS". USE THE WORD "RESIDENCE" TO DENOTE A DWELLING PLACE THAT MAY BE EITHER TRANSIENT OR PERMANENT. USE THE WORD "DOMICILE" TO DENOTE WHAT IS OFTEN REFERRED TO AS THE INDIVIDUAL'S LEGAL RESIDENCE -- THE PRINCIPAL PLACE TO WHICH, WHENEVER THE INDIVIDUAL IS ABSENT, THE INDIVIDUAL INTENDS TO RETURN. USE THE WORD "ADDRESS" TO DENOTE A SPECIFIC PLACE.

14. "SUCH". DO NOT USE "SUCH" AS A DEMONSTRATIVE ADJECTIVE.

Example.

Use

that person shall

Do not use

such person shall

Discussion. Use of "such" is not forbidden in all instances. For example, the phrase "such as" may be used. However, "such" should not be used where "that", "these", or "those" could be used instead.

15. CIRCUMLOCUTION. AVOID CIRCUMLOCUTION. USE A SINGLE WORD OR A SHORT PHRASE INSTEAD.

16. IMPRECISE WORDS OF REFERENCE. USE A PRECISE REFERENCE RATHER THAN IMPRECISE WORDS OF REFERENCE.

Examples.

| <u>Use</u> | <u>Do not use</u> |
|---|--------------------------------|
| Except as provided in this section, ... | Except as herein provided, ... |
| Except as provided in subsection (a) of this section, ... | Except as provided above; ... |

17. PREPOSITIONS AND CONJUNCTIONS. USE SIMPLE PREPOSITIONS AND CONJUNCTIONS INSTEAD OF COMPOUND PREPOSITIONS AND CONJUNCTIONS.

Example.

| <u>Use</u> | <u>Do not use</u> |
|------------|-------------------|
| from which | wherefrom |

18. SIMPLE WORDS. IF 2 WORDS OR EXPRESSIONS ARE EQUALLY PRECISE, USE THE SHORTER INSTEAD OF THE LONGER AND USE THE COMMONPLACE INSTEAD OF THE EXOTIC.

Example.

Use

limited divorce

Do not use

divorce a mensa et thoro

19. UNNECESSARY WORDS. AVOID USING UNNECESSARY ADJECTIVES, E.G., "REAL", AND UNNECESSARY ADVERBS, E.G., "DULY".

Examples.

Use

funds received

authorized expenditures

Do not use

funds actually received

duly authorized expenditures

Discussion. Unless they are needed for special emphasis, adjectives and adverbs like "true" and "truly" should be avoided. Generally, these words add nothing to meaning, but merely "gild the lily". See R. Dickerson, The Fundamentals of Legal Drafting § 6.10 (1965).

20. VERBS AND ABSTRACT NOUNS. USE VERBS INSTEAD OF PHRASES THAT CONTAIN ABSTRACT NOUNS.

Discussion. An abstract noun is a noun that names an idea or a quality.

21. NOUN OVERUSE. AVOID USING NOUNS INSTEAD OF ADJECTIVES OR PREPOSITIONAL PHRASES.

Example.

Use

the report of the Board

Do not use

the Board report

22. PREFERENCE FOR SINGULAR. THE SINGULAR ORDINARILY INCLUDES THE PLURAL AND VICE VERSA. THEREFORE, UNLESS THE SINGULAR IS NOT INTENDED, USE THE SINGULAR TO INCLUDE BOTH THE SINGULAR AND THE PLURAL.

Example.

Use

A person who...

Do not use

A person or persons who...

Discussion. Article 1, § 8 of the Code provides that the singular includes the plural and vice versa unless that construction is unreasonable.

Caveat. Be especially careful about substituting the singular for the plural, as there are situations where a substantive difference exists between the 2 constructions.

23. STANDARD TERMINOLOGY. TO THE EXTENT APPROPRIATE, USE THE FOLLOWING TERMINOLOGY WHEN DRAFTING:

- (1) "ADMINISTER OATHS";
- (2) "COMPEL THE ATTENDANCE OF WITNESSES";
- (3) "THERE IS A (NAME OF AGENCY AND, IF APPLICABLE, THE DEPARTMENT IN WHICH THE AGENCY IS PLACED)";
- (4) "EXERCISE" POWERS AND "PERFORM" DUTIES;

(5) "IS ENTITLED TO" A SALARY (NOT "AN INDIVIDUAL SHALL HAVE A SALARY");

(6) "INTENT OF THIS SUBTITLE" (NOT "INTENT BEHIND THIS SUBTITLE");

(7) TO REFER TO MARYLAND, USE "THE STATE" (NOT "THIS STATE" UNLESS TO DO OTHERWISE IS NECESSARY TO AVOID AMBIGUITY);

(8) "AS THE MARYLAND RULES PROVIDE" (NOT "AS PROVIDED BY THE MARYLAND RULES"); AND

(9) "THIS SUBTITLE (OR TITLE) MAY BE CITED AS THE 'MARYLAND UNIFORM GIFTS TO MINORS ACT'".

24. MISCELLANEOUS PREFERRED WORD CHOICES. USE THE WORDS THAT ARE PREFERRED IN THE FOLLOWING TABLE:

| <u>Do not use</u> | <u>Use instead</u> |
|--|--------------------|
| absolutely null and void and of no effect | void |
| alright | all right |
| any or all | any |
| are presently in progress | are in progress |
| at such time as | when |
| at that point in time | then |
| at the point in time | when |

STYLE MANUAL - 1985 Edition
12/5/85 Ferris

| <u>Do not use</u> | <u>Use instead</u> |
|------------------------------|------------------------|
| at this point in time | now |
| be and the same hereby is | is |
| commence | begin |
| conferred on | granted to |
| data | information |
| during the course of | during |
| each and all | each |
| each and every | each |
| expeditiously as practicable | as soon as practicable |
| feasible | possible |
| finalize | complete |
| format | form |
| formulate | make |
| for the duration of | during |
| for the reason that | because |
| forthwith | immediately |
| forward | send |
| from and after | from |
| full force and effect | effect |
| general consensus | consensus |
| give consideration to | consider |
| give recognition to | recognize |
| grant an order | pass an order |

| <u>Do not use</u> | <u>Use instead</u> |
|--|--------------------|
| has the duty to | shall |
| have the knowledge of | know |
| have need of | need |
| in case | if |
| inflammable | flammable |
| in lieu of | instead of |
| in order to | to |
| in the event that | if |
| irregardless | regardless |
| is authorized and directed to | shall |
| is authorized to | may |
| is defined to mean | means |
| is directed to | shall |
| is empowered to | may |
| is not precluded from | may |
| is hereby authorized to | may |
| is required to | shall |
| issue an order | pass an order |
| is vested with power and authority and has the duty to | shall |
| it is lawful to | may |
| make an order | pass an order |
| make application | apply |

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12/5/85 Ferris

| <u>Do not use</u> | <u>Use instead</u> |
|----------------------------------|-----------------------------|
| make payment | pay |
| make provision for | provide for |
| meet up with | meet |
| not precluded from | may |
| null and void | void |
| or, in the alternative, | or |
| pertain | relate |
| portion | part |
| prescribe | require |
| present incumbent | incumbent |
| prior to | before |
| promulgate rules and regulations | adopt rules and regulations |
| proscribe | prohibit |
| purchase | buy |
| purchase and acquire | acquire |
| pursuant to | in accordance with |
| pursuant to | under |
| relating to | that relates to |
| select | choose |
| separate and apart | apart |
| shall be construed to mean | means |
| shall have the power to | may |

| <u>Do not use</u> | <u>Use instead</u> |
|--------------------------------|---------------------------------------|
| shall mean | means |
| shall not | may not |
| sole and exclusive | sole |
| subsequent to | after |
| such | that (or "this" or a similar word) |
| the individual currently lives | the individual lives |
| transmit | send |
| under the provisions of | under |
| unless and until | unless |
| until such time as | until |
| upon | on |
| utilize | use |
| vendee | buyer |
| vendor | seller |
| whatsoever | whatever |
| whensoever | whenever |
| wheresoever | wherever |
| whosoever | whoever |

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CHAPTER 25. WORD ORDER.

1. PROXIMITY OF SUBJECT AND VERB. PLACE THE SUBJECT AND VERB OF A SENTENCE AS CLOSE TOGETHER AS REASONABLY POSSIBLE.

Example.

| <u>Use</u> | <u>Do not use</u> |
|---|--|
| With the approval of the Governor, the Secretary shall... | The Secretary, with the approval of the Governor, shall... |

2. PROXIMITY OF VERB AND OBJECT OR PREDICATE NOUN. PLACE THE OBJECT OF A TRANSITIVE VERB OR THE PREDICATE NOUN FOLLOWING A LINKING VERB AS CLOSE AFTER THE VERB AS POSSIBLE.

Example.

| <u>Use</u> | <u>Do not use</u> |
|--|--|
| The Governor shall deliver the original executive order or a certified copy of it to the Secretary of State. | The Governor shall deliver to the Secretary of State the original executive order or a certified copy of it. |

CROSS-REFERENCE.

Order of words in sentence -- See Chapter 21. "Sentence Length and Structure".

STYLE MANUAL - 1985 Edition
12/5/85 Ferris

INDEX

A

| | |
|---|-------|
| "A"..... | 7-8 |
| Abstract nouns..... | 93 |
| "Acquire"..... | 98 |
| Active voice..... | 85 |
| Acts, capitalizing names of..... | 9 |
| Additions to revised articles..... | 64-66 |
| "Address"..... | 91 |
| "Administer oaths"..... | 94 |
| "Adopt"..... | 87 |
| "Adult"..... | 5-6 |
| "Affirmation"..... | 89 |
| "After"..... | 30 |
| Age..... | 5-6 |
| "adult"..... | 5 |
| "minor"..... | 6 |
| specified age..... | 5 |
| "at least"..... | 5 |
| "younger than"..... | 5 |
| "All"..... | 7 |
| Amendments to statutes, reference to..... | 18 |
| "An"..... | 7-8 |
| "And"..... | 23 |
| in general..... | 23 |
| use in definitions..... | 37 |
| "And/or"..... | 23 |
| Antecedents of pronouns..... | 69-70 |

STYLE MANUAL - 1985. Edition
12/5/85 Ferris

| | |
|---|---------|
| "Any"..... | 7 |
| Apostrophe..... | 45, 74 |
| "Apply" and "application"..... | 97 |
| Archaic language..... | 50 |
| Articles (parts of speech)..... | 7-8, 45 |
| definite..... | 8 |
| gender neutral language..... | 45 |
| indefinite..... | 7-8 |
| Articles (parts of Code), citation..... | 16-17 |
| revised articles..... | 16 |
| unrevised articles..... | 16-17 |
| "As amended"..... | 18 |
| "At least" specified age..... | 5 |

B

| | |
|---------------------------------|-------|
| "Baltimore City"..... | 87 |
| "Before or after"..... | 30-31 |
| "Begin"..... | 96 |
| "Behind", with "intent"..... | 95 |
| "Bi"..... | 49 |
| "Both" instead of "and/or"..... | 23-24 |
| "Buy" and "buyer"..... | 99 |

C

| | |
|--|-------------|
| Calendar deadlines, use of "on or before"..... | 29 |
| Capitalization..... | 9-12, 82-83 |
| Constitution..... | 10 |
| courts..... | 10-11 |
| general rules..... | 9, 11-12 |
| federal acts..... | 12 |
| governmental agencies..... | 11 |

| | |
|--|--------------|
| miscellaneous reference list..... | 11-12 |
| names of acts..... | 9 |
| official governmental offices..... | 10 |
| proper nouns..... | 9 |
| short words..... | 9 |
| tabulation..... | 82-83 |
| Cardinal numbers..... | 57-58 |
| in general..... | 57 |
| large numbers..... | 57-58 |
| large numbers in words..... | 58 |
| Cents..... | 55-56 |
| Certified mail..... | 88-89 |
| "Choose"..... | 98 |
| Circumlocution..... | 92 |
| Citation and cross-references..... | 13-21 |
| avoid cross-references..... | 13 |
| combined statutory units..... | 14-15 |
| descriptions of statutes..... | 18 |
| federal statutes..... | 17 |
| later amendments..... | 18 |
| Maryland Constitution..... | 20-21 |
| Maryland Declaration of Rights..... | 21 |
| Maryland Rules..... | 20 |
| order..... | 13 |
| revised article..... | 16 |
| sections..... | 14-15, 17-18 |
| series of sections..... | 17 |
| short title..... | 18-20 |
| smallest common unit as reference point..... | 13-14 |
| unrevised article..... | 16-17 |
| use of "of"..... | 15-17 |
| Clauses, independent..... | 72-73 |
| Clauses, punctuation of..... | 72-73 |
| Clauses, restrictive..... | 72 |
| Colon..... | 82 |
| Commas..... | 57-58, 71-74 |
| independent clauses..... | 72-73 |

STYLE MANUAL - 1985 Edition
12/5/85 Ferris

| | |
|--|----------------------|
| large numbers..... | 57-58 |
| paired..... | 71-72 |
| separate predicates..... | 73 |
| used instead of parentheses..... | 73-74 |
| with quotation marks..... | 73 |
| with restrictive clauses..... | 72 |
| "Commence"..... | 96 |
| Commission to Revise the Annotated Code..... | 1-3 |
| Combined statutory units, designation of..... | 14-15 |
| "Compel the attendance of witnesses"..... | 94 |
| "Completely"..... | 87-88 |
| Composite definitions..... | 37 |
| Computer searches..... | 21 |
| Condition precedent, use of "must"..... | 68 |
| Conditions..... | 41-43 |
| "Conferred on"..... | 96 |
| Conjunctions..... | 23-25, 37-38, 82, 92 |
| "and"..... | 23 |
| "and/or"..... | 23-24 |
| in definitions..... | 37-38 |
| in penalty provisions..... | 24-25 |
| in tabulations..... | 82 |
| "Consider"..... | 88 |
| Consistency..... | 27-28, 38-39 |
| defined terms..... | 27, 38-39 |
| revised articles drafted under former rules..... | 28 |
| synonyms..... | 27-28 |
| Constitution, Maryland (see "Maryland Constitution", this index)..... | 10, 20-21 |
| Corporations, use of "person"..... | 90 |
| "County"..... | 87, 89, 91 |
| "Baltimore City"..... | 87 |

| | |
|---|-------|
| "municipal corporation" versus..... | 89 |
| use of "political subdivision"..... | 91 |
| Court rules..... | 20 |
| Courts, capitalizing names of..... | 10-11 |
| Cross-references and citation (see "Citation and cross-references", this index)..... | 13-21 |

D

| | |
|--|--------------|
| "Data"..... | 88 |
| "Date"..... | 31 |
| Dates and periods of time..... | 29-31 |
| Day..... | 29, 31 |
| "day" versus "date" or "time"..... | 31 |
| reference to month and day..... | 29 |
| Deadlines, use of "on or before"..... | 29 |
| Decimals..... | 55-56, 58-59 |
| Declaration of Rights, Maryland (see "Maryland Declaration of Rights", this index)..... | 10, 21 |
| "Deem"..... | 88 |
| Definite articles..... | 8 |
| Definitions..... | 27, 33-40 |
| "1-shot definitions"..... | 33-34 |
| composite definitions..... | 37 |
| conjunctions in..... | 37-38 |
| different parts of speech..... | 38-39 |
| "does not include" definitions..... | 36-37 |
| "Humpty-dumpty definitions"..... | 33 |
| "includes" definitions..... | 36-37 |
| incorporation by reference, defining by..... | 39 |
| "means" definitions..... | 36-37 |
| multiple words in defined term..... | 39-40 |
| order of..... | 35-36 |
| parallel construction of..... | 38 |

STYLE MANUAL - 1985 Edition
12/5/85 Ferris

| | |
|--|-------|
| placement of..... | 35-36 |
| reciting the obvious..... | 33 |
| "stuffed definitions"..... | 34-35 |
| "unless the context requires otherwise", use of..... | 40 |
| unused definitions..... | 33-34 |
| variations on defined terms..... | 27 |
| when to use..... | 33 |
| Dependence on punctuation..... | 71 |
| Descriptions of statutes..... | 18 |
| "Does not include"..... | 36-37 |
| Dollars..... | 55-56 |
| "Domicile"..... | 91 |
| "Duly"..... | 93 |
| Duty, expressing..... | 67-68 |

E

| | |
|--|--------|
| "Each"..... | 7 |
| "Entitled to"..... | 67, 95 |
| Establishment of agency, language for..... | 94 |
| "Et seq."..... | 17 |
| "Every"..... | 7 |
| "Except"..... | 42-43 |
| Exceptions..... | 41-43 |
| interlocking..... | 42-43 |
| placement of..... | 41 |
| use of "except" and "notwithstanding"..... | 42-43 |
| "Exercise" powers..... | 94 |

F

| | |
|---|-------|
| Federal statutes, citation of..... | 17 |
| Fines and imprisonment, use of "or both"..... | 24 |
| "Flammable"..... | 97 |
| "Form" versus "format"..... | 96 |
| Former style rules, revised articles drafted under..... | 28 |
| "Forward"..... | 96 |
| Fractions..... | 58-60 |
| decimal fractions..... | 58-59 |
| fraction of a percent..... | 60 |
| "majority" versus "51%"..... | 60 |
| non-decimal fractions expressed in words..... | 59 |
| preference for percentages..... | 59-60 |
| "From"..... | 30 |
| Future tense..... | 68 |
| Future time periods, use of "after"..... | 30 |

G

| | |
|---|-------|
| Gender neutral language..... | 45-47 |
| exceptions to mandate for..... | 47 |
| methods of avoiding gender biased words..... | 45-46 |
| names and organizational titles..... | 46 |
| single sex intended..... | 46 |
| Governmental agencies, capitalizing names of..... | 11 |
| "Granted to"..... | 96 |

H

| | |
|---------------------------------------|-------|
| "How" adverb or adverbial phrase..... | 77-78 |
| "Humpty-dumpty definitions"..... | 33 |

I

| | |
|-----------|-------|
| "If"..... | 41-42 |
|-----------|-------|

STYLE MANUAL - 1985 Edition
12/5/85 Ferris

| | |
|--|-----------|
| to introduce condition..... | 41-42 |
| "when" versus..... | 41-42 |
| "whether" versus..... | 42 |
| Imperative..... | 85 |
| Imprisonment and fines, use of "or both"..... | 24 |
| "Includes"..... | 36-37 |
| Incorporation by reference in definitions..... | 39 |
| Indefinite articles "a" and "an", use of..... | 7-8 |
| Independent clauses..... | 72-73 |
| Indicative mood..... | 85-86 |
| "Individual"..... | 6, 90 |
| "Inflammable"..... | 97 |
| Interlocking exceptions..... | 42-43 |
| "In lieu of"..... | 97 |
| "Information"..... | 88 |
| "Instead of"..... | 97 |
| Intervals of time..... | 30-31 |
| Introduction to Style Manual..... | 1-3 |
| "Is deemed"..... | 88 |
| Items of sections..... | 62-63, 65 |

L

| | |
|---|----|
| Language, archaic..... | 50 |
| Later amendments, reference to..... | 18 |
| Latinisms..... | 49 |
| Legal fictions, use of "is deemed"..... | 88 |

| | |
|--------------------------------|-------|
| Legalisms..... | 49-50 |
| Limitations, placement of..... | 41 |

M

| | |
|--|--------------|
| Mail, "certified" and "registered"..... | 88-89 |
| "Majority" versus "51%"..... | 60 |
| Mandatory obligation to act..... | 67-68 |
| Maryland Constitution..... | 10, 20-21 |
| capitalizing references to..... | 10 |
| citation of..... | 20-21 |
| Maryland Declaration of Rights..... | 10, 21 |
| capitalizing references to..... | 10 |
| citation of..... | 21 |
| Maryland Rules of Procedure, citation of..... | 20 |
| "Maryland", inclusion in short titles..... | 19 |
| "May" and "may not"..... | 67, 97-99 |
| "Means"..... | 36-37 |
| "Minor"..... | 6 |
| Miscellaneous preferred word choices..... | 95-99 |
| Model Guide for Drafting Board, Commission, and Licensing Provisions..... | 62 |
| Modifiers..... | 51-53, 75-76 |
| ambiguity and clarity..... | 51-52 |
| nonrestrictive..... | 75-76 |
| placement..... | 51-52 |
| restrictive..... | 75-76 |
| "squinting"..... | 51-52 |
| use of "that"..... | 75-76 |
| use of "State"..... | 53 |
| use of "which"..... | 75-76 |
| Money..... | 55-56 |

| | |
|--|-------|
| Month, reference by..... | 29 |
| Moods, indicative and subjunctive..... | 85-86 |
| Multiple words in defined terms..... | 39-40 |
| "Municipality"..... | 89 |
| "Municipal corporation"..... | 89 |
| "Must"..... | 68 |

N

| | |
|---|-----------------|
| Names and gender neutral language..... | 46 |
| Names of acts, capitalization of..... | 9 |
| "Natural person"..... | 90 |
| Nonrestrictive modifiers..... | 75-76 |
| "Notwithstanding"..... | 42-43 |
| Nouns..... | 7-9, 93-94, 101 |
| "a" before nouns of general reference..... | 7-8 |
| abstract nouns..... | 93 |
| "an" before nouns of general reference..... | 7-8 |
| predicate noun, placement of..... | 101 |
| proper, capitalization of..... | 9 |
| singular, preference for..... | 94 |
| "the" before nouns of specific reference..... | 8 |
| use instead of adjective or prepositional phrase..... | 93-94 |
| Numbers..... | 57-60 |
| cardinal..... | 57-58 |
| commas..... | 57-58 |
| decimal fractions..... | 58-59 |
| expression in words..... | 57-58 |
| fractions..... | 58-60 |
| large..... | 57-58 |
| ordinal..... | 58 |
| percent symbol and percentages..... | 59-60 |

O

| | |
|---|---------------|
| "Oath"..... | 89 |
| Object of preposition..... | 81 |
| Object of verb, placement of..... | 77-78, 101 |
| Obligation to act..... | 67-68 |
| "Of"..... | 15-17, 74, 95 |
| in citation..... | 15-17 |
| with "intent"..... | 95 |
| Official governmental offices, capitalizing names of..... | 10 |
| "On"..... | 99 |
| "On or after"..... | 29-30 |
| "On or before"..... | 29 |
| "One-shot definitions"..... | 33-34 |
| "Or"..... | 23-24, 37-38 |
| in general..... | 23-24 |
| use in definitions..... | 37-38 |
| "Order", passing of..... | 89-90 |
| Ordinal numbers..... | 58 |
| Organization, standard..... | 61-62 |
| Organizational titles..... | 46 |

P

| | |
|-----------------------------|-----------|
| Paired commas..... | 71-72 |
| Paragraphs of sections..... | 62-63, 65 |
| Parallelism..... | 38, 79-80 |
| in definitions..... | 38-39 |
| in tabulations..... | 79-80 |
| Parentheses..... | 73-74 |
| "Part"..... | 98 |

| | |
|--|--------|
| "Partially"..... | 87-88 |
| "Partly"..... | 87-88 |
| "Pass" in order..... | 89-90 |
| Passive voice..... | 85 |
| Penalty provisions..... | 24 |
| Penny amounts..... | 55-56 |
| Percent, fraction of..... | 60 |
| Percent symbol..... | 59-60 |
| Percentages..... | 59-60 |
| "majority" versus "51%"..... | 60 |
| preferred over fractions..... | 59-60 |
| "Perform" duties..... | 94 |
| "Person"..... | 90 |
| Plural..... | 94 |
| "Political subdivision"..... | 91 |
| "Portion"..... | 98 |
| Possessive case..... | 45, 74 |
| Power, use of "may" to express..... | 67 |
| "Precluded"..... | 98 |
| Predicate, separate, punctuation of..... | 73 |
| Predicate noun, placement..... | 101 |
| Preferred terminology..... | 95-99 |
| Prepositions..... | 81, 92 |
| "Prescribe"..... | 98 |
| Present tense..... | 85 |

| | |
|--|---------------------|
| Present perfect tense..... | 85 |
| Privilege, use of "may" to express..... | 67 |
| "Prohibit"..... | 98 |
| Prohibition, use of "may not" to express..... | 67 |
| Pronouns..... | 45-46, 69-70, 75-76 |
| antecedent, agreement with and clarity of..... | 69-70 |
| gender biased provisions..... | 45-46 |
| relative pronouns..... | 75-76 |
| vague..... | 69-70 |
| Proper nouns, capitalizing of..... | 9 |
| "Proscribe"..... | 98 |
| "Provide"..... | 95 |
| Proximity of subject and verb..... | 101 |
| Punctuation..... | 71-74, 82 |
| apostrophe..... | 45, 74 |
| clauses, independent and restrictive..... | 72-73 |
| dependence on..... | 71 |
| commas..... | 57-58, 71-72 |
| independent clauses..... | 72-73 |
| large numbers..... | 57-58 |
| paired..... | 71-72 |
| placement with quotation marks..... | 73 |
| restrictive clauses..... | 72 |
| separate predicates..... | 73 |
| series..... | 71 |
| parentheses..... | 73 |
| periods..... | 73, 82 |
| quotation marks..... | 73 |
| tabulation..... | 82 |
| "Purchase"..... | 98 |
| "Pure" list tabulation..... | 80, 83 |

Q

| | |
|--|----|
| Quotation marks, punctuation with..... | 73 |
|--|----|

R

| | |
|--|-----------|
| "Real"..... | 93 |
| Registered mail..... | 88-89 |
| "Relate"..... | 98 |
| Relative pronouns..... | 75-76 |
| "Require"..... | 98 |
| Requirement, stating..... | 67-68 |
| "Residence"..... | 91 |
| Restrictive clauses, punctuation of..... | 72 |
| Restrictive modifiers..... | 75-76 |
| Revised article, additions to..... | 28, 64-66 |
| adding item to..... | 65 |
| adding section to..... | 64-65 |
| adding subitem to..... | 65 |
| adding subparagraph to..... | 65 |
| adding subsection to..... | 65-66 |
| adding subtitle to..... | 64 |
| adding title to..... | 64 |
| revised articles drafted under former rules..... | 28 |
| special designations when adding new subsections..... | 65-66 |
| Revised article, citation of..... | 16 |
| Revisor of Statutes..... | 3 |
| Right, use of "may" to express..... | 67 |
| Rules, Maryland, citation of..... | 20 |
| Rules of style, former..... | 28 |

S

| | |
|---|------------------|
| "Said"..... | 50 |
| Searches, computer..... | 21 |
| Sections..... | 13-18, 61-66 |
| citation of..... | 13-18 |
| composition of..... | 62 |
| designation of..... | 63 |
| new, adding of..... | 64-65 |
| organization of..... | 61-62 |
| subdivision of..... | 62-63 |
| Section symbols..... | 14-17, 63 |
| "Select"..... | 98 |
| "Send"..... | 96 |
| Sentences..... | 41, 72-73, 77-78 |
| punctuation of sentences containing 2 or more independent clauses..... | 72-73 |
| structure and style..... | 41, 77-78 |
| Series..... | 17-18, 52, 71 |
| modifiers of..... | 52 |
| punctuation of..... | 71 |
| of sections, citation of..... | 17-18 |
| Sexist language (see "Gender neutral language", this index)..... | 45-47 |
| "Shall"..... | 67-68 |
| mandatory obligation to act..... | 68 |
| not used for future tense..... | 68 |
| Short titles..... | 18-20, 95 |
| citation by..... | 18-19 |
| "Maryland", inclusion in..... | 19 |
| standard language creating..... | 95 |
| year not to be included..... | 19-20 |
| Simple sentences..... | 77 |
| Simple words..... | 92-93 |
| Singular..... | 94 |
| "Splitting" preposition and object..... | 81 |

STYLE MANUAL - 1985 Edition
12/5/85 Ferris

| | |
|---|--------------|
| "Splitting" verbs..... | 81, 86 |
| "Squinting" modifiers..... | 51-52 |
| Standard organization..... | 61-62 |
| Standard terminology..... | 94-95 |
| "State", use in reference to Maryland agency or office..... | 53 |
| Statutes, citation and cross-reference..... | 13-21, 39 |
| computer searches, use of..... | 21 |
| Constitution, Maryland, citation of..... | 20-21 |
| cross-references to be avoided..... | 13 |
| Declaration of Rights, Maryland, citation of..... | 21 |
| defining by cross-reference..... | 39 |
| descriptions of..... | 18 |
| federal statutes, citation of..... | 17 |
| Maryland Rules, citation of..... | 20 |
| "of", use of..... | 15-17 |
| order of units..... | 13-14 |
| reference to later amendments..... | 18 |
| revised articles, citation of..... | 16 |
| series of sections..... | 17-18 |
| short titles..... | 18-20 |
| units, designation of..... | 14-15 |
| unrevised articles, citation of..... | 16-17 |
| Statutes, organization of..... | 61-66 |
| "Stuffed definitions"..... | 34-35 |
| Style Manual, Introduction to..... | 1-3 |
| contents and scope..... | 1-2 |
| Revisor of Statutes, adoption by..... | 3 |
| Style Committee..... | 3 |
| Subject, placement in sentence..... | 77-78, 101 |
| Subjunctive mood..... | 85-86 |
| Subitems of sections..... | 62-63, 65 |
| Subparagraphs of sections..... | 62-63, 65 |
| Subsections of sections..... | 62-63, 65-66 |

| | |
|---------------------------|--------|
| Subtabulation..... | 83-84 |
| maximum extent of..... | 84 |
| sequence of items in..... | 83 |
| Subtitle, adding..... | 64 |
| "Such"..... | 50, 91 |
| Synonyms..... | 27-28 |

I

| | |
|---|--------------|
| Tabulation..... | 79-84 |
| capitalization in..... | 83 |
| contextual coordination..... | 80 |
| continuing sentence or paragraph after..... | 81-82 |
| definition of..... | 79 |
| form and punctuation..... | 82-83 |
| overtabulation..... | 79 |
| parallelism..... | 79-80 |
| sequence of subtabulation..... | 83 |
| "splitting" prepositions and objects..... | 80-81 |
| subtabulation, maximum extent of..... | 84 |
| subtabulation, sequence of items in..... | 83 |
| Tense..... | 85 |
| "That"..... | 69-70, 75-76 |
| "The"..... | 8, 50, 95 |
| use for specific reference..... | 8 |
| use with "State"..... | 95 |
| "These"..... | 69-70 |
| "This"..... | 69-70 |
| "Through"..... | 17-18 |
| Time..... | 29-31, 41-42 |
| day..... | 29, 31 |
| "if"..... | 41 |
| intervals and periods..... | 30 |
| month, reference by..... | 29 |
| "on or after"..... | 29-30 |
| "on or before"..... | 29 |
| "when"..... | 41, 42 |
| "whenever"..... | 42 |

| | |
|---|-----------|
| Title, adding..... | 64 |
| Titles, short (see "Short titles", this index)..... | 19-20, 95 |
| "To"..... | 17, 30 |
| "Transmit"..... | 99 |

U

| | |
|--|-------|
| "Unless the context requires otherwise"..... | 40 |
| Unnecessary words..... | 93 |
| Unrevised articles, citation of..... | 16-17 |
| Unused definitions..... | 33-34 |
| "Upon"..... | 99 |
| "Use"..... | 99 |
| "Utilize"..... | 99 |

V

| | |
|----------------------------------|---------------------------|
| Variations on defined terms..... | 27 |
| "Vendee"..... | 99 |
| "Vendor"..... | 99 |
| Verbiage, unnecessary..... | 93 |
| Verbs..... | 77-78, 81, 85-86, 93, 101 |
| abstract nouns versus..... | 93 |
| active voice..... | 85 |
| indicative mood..... | 85-86 |
| passive voice..... | 85 |
| placement in sentence..... | 77-78, 101 |
| present perfect tense..... | 85 |
| present tense..... | 85 |
| "splitting" verbs..... | 81, 86 |
| subjunctive mood..... | 85 |
| Voice, active and passive..... | 85 |

W

| | |
|--|--------------|
| "When"..... | 41-42, 77-78 |
| "if" versus..... | 41-42 |
| "whenever" versus..... | 42 |
| "when" adverb or adverbial phrase..... | 77-78 |
| "Whenever"..... | 42 |
| "if" versus..... | 42 |
| "when" versus..... | 42 |
| "Where" adverb or adverbial phrase..... | 77-78 |
| "Whether"..... | 42 |
| "Which"..... | 69-70, 75-76 |
| "Who"..... | 75 |
| Whole dollar amounts..... | 55 |
| "Wholly"..... | 87 |
| "Whose"..... | 75 |
| "Will", to indicate future tense..... | 68 |
| Word choice..... | 87-99 |
| preferred word choice lists..... | 95-99 |
| standard terminology..... | 94-95 |
| Word order..... | 77-78, 101 |
| parts of sentence..... | 77-78 |
| subject, verb, object, and predicate noun..... | 101 |

Y

| | |
|---|-------|
| "Year" not to be included in short title..... | 19-20 |
| "Younger than"..... | 5 |

